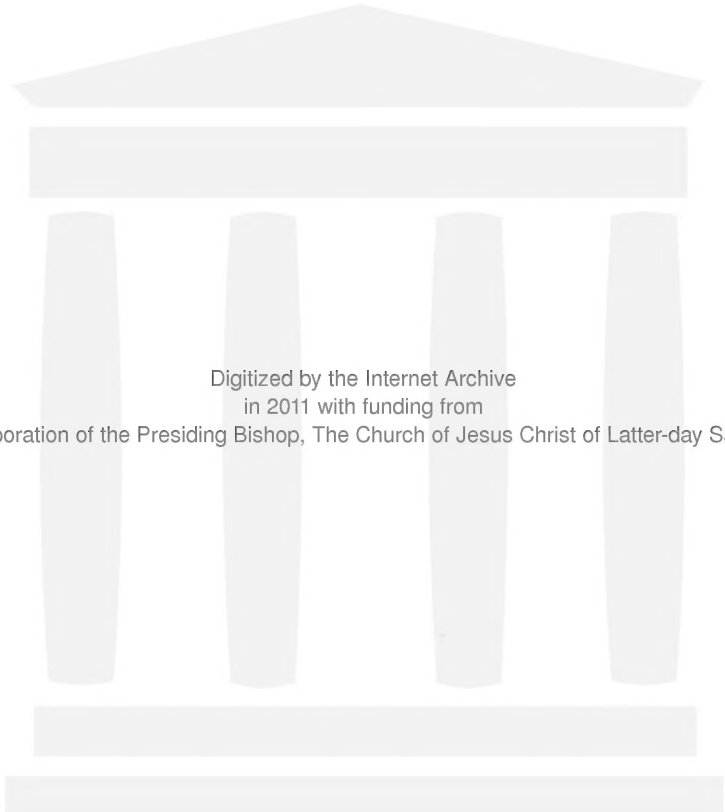
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JULY, 1914

AMERICANA

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"JOHN FITCH," 1786

This is positively the first Steamboat ever built, claim of books of reference to the contrary notwithstanding. The above illustration shows the boat as it appeared on the Delaware River, opposite Philadelphia in 1786.

AMERICANA

July, 1914

Old Ships and Ship-building

BY HOPPER STRIKER MOTT

TRUSTEE AND TREASURER OF THE NEW YORK GENEALOGICAL AND BIOGRAPHICAL SOCIETY AND EDITOR OF *The New York Genealogical and Biographical Record.*

PART III

THE accompanying views were intended to illustrate the writer's articles with the above title as published in the April and May numbers of the AMERICANA for the current year, but were received too late for use in the articles, as intended by the author. At the request of the editor the writer has supplemented the article with the following historical facts as to the priority of claim to the invention of the steamboat and an eminently just narrative of the claims of John Fitch as printed in *Lamb's Biographical Dictionary of the United States*, (1903), which will aid our readers in following up the claims of the respective inventors.

John Fitch, inventor, was born in East Windsor, Connecticut, January 21, 1743. He received a limited school training; was apprenticed to a watchmaker; contracted an unfortunate marriage, and left his home about 1769, settling in Trenton, New Jersey, where he worked at his trade. The necessities of arms for the American army led him to take up the business of a gunsmith, but when the British occupied Trenton in December, 1776, they destroyed his shop and stock. He thereupon joined the New Jersey troops and passed the winter with Washington's army at Valley Forge. He afterward became an itinerant clockmaker, and in the spring of 1780 was made a deputy surveyor for Virginia of the territory between the Kentucky and Green rivers. Returning to Philadelphia in the autumn of 1781 he purchased a stock of goods and set out for the west to trade with

the pioneer settlers. The Indians killed two of his companions, captured nine others and destroyed his goods. He was a prisoner for two years, escaping in 1783 and reaching Warminster, Pennsylvania, where he settled and in April, 1785, built a model of a steamboat propelled by side-wheels, which he changed in July, 1786, to a small skiff moved with paddles, propelled by a three-inch cylinder steam-engine, which is believed to have been the first double-acting condensing engine transmitting power by means of cranks, ever invented. He petitioned the national and state legislatures and scientific men all over the world for pecuniary help to perfect his steamboat which he claimed to be capable of crossing the ocean, but he was considered insane. He finally resorted to the sale of a map of the North Western territory which he constructed and engraved with his own hand, and printed on a cider-press and by this expedient procured $800.00. With this sum he began in February, 1787, the construction of a second boat of sixty tons, forty-five feet long and twelve feet beam, with six paddles on each side and a twelve-inch cylinder steam-engine. This craft made a satisfactory trial trip on the Delaware river August 22, 1787, in the presence of the delegates convened to frame the Federal constitution. This publicity and the fact that New Jersey, New York, Delaware, Pennsylvania and Virginia had granted him exclusive privilege of steam-navigation on their waters for fourteen years greatly encouraged the inventor and he constructed another boat in October, 1788, and still another in April, 1790, the *Perseverance*, which latter ran an entire summer, carrying passengers between Philadelphia and Burlington, and maintaining an average speed of eight miles an hour, covering eighty miles in one day. The company, which he had formed in February, 1787, then built a steamboat to carry both freight and passengers on the Mississippi river under a charter from Virginia for the exclusive right of steam-navigation on "the Ohio river and its tributaries." This vessel was so damaged in a storm as to require repairs that extended beyond the time named in a default clause in the contract, and the stockholders abandoned the project. In 1791 he received a patent for his inventions in the United States, from which he gained no benefit. The steamboat company sent him to France in 1793,



"CLERMONT," 1807

Given in error by Enclyclopaedias and works of reference generally, as being the first Steamboat built. Sailed from New York to Albany September, 1807. The "John Fitch" was built and operated on the Delaware River 21 years before the "Clermont" was completed.

where their purpose was to build a steamboat, but the plans were frustrated by the Revolution. He deposited his plans and specifications with Aaron Vail, the American consul at L'Orient, who was greatly interested in the project and who furnished him means to visit London, England. The consul during his absence exhibited and loaned the drawings to Robert Fulton, who had them in his possession in Paris for several months. Fitch returned to America in 1794, having been obliged to ship as a sailor for Boston to gain passage home. He went to his farm at Bardstown, Kentucky, which he found in the possession of strangers, and returned east locating in Sharon, Connecticut. He went to New York city in 1796, where he constructed a steamboat, using for the craft a ship's yawl with a screw-propeller moved by a small high-pressure engine. This he successfully exhibited on Collect Pond in New York city, afterward the site of the city prison. In 1798 he returned to Bardstown, Kentucky, where he built a three-foot model steamboat which he tried on a small stream. He lived at this time in a small tavern, having neither friend nor relation near, and his body was found in his room, death having been produced by poison. The journal of Mr. Fitch records these words: "The day will come when some more powerful man will get fame and riches for my invention; but nobody will believe that poor John Fitch can do anything worthy of attention." In 1817 a committee of the New York legislature after a full investigation of the respective claims of Fitch and Fulton to priority in inventions, and after hearing witnesses and counsel on both sides reported: "The steamboats built by Livingston and Fulton are in substance the invention patented to John Fitch in 1791, and Fitch during the term of his patent had the exclusive right to use the same in the United States."

He died at Bardstown, Kentucky, July 2, 1798.

It is undoubtedly true that John Fitch, of East Windsor, Conn., was the first to apply steam power to the propulsion of boats. To others, however, must be given the priority of conception. It was in June or July of 1785 that he formulated the models and in August he laid them before Congress. On Sept. 27 he presented to the American Philosophical Society of Philadelphia "a model with a drawing and description of a machine

for working a boat against the current, by means of a steam engine."

In March, 1786, the State of New Jersey granted him "the exclusive privileges for the emolluments of such invention," followed by Delaware, New York and Pennsylvania during the winter and spring and by Virginia in Oct., 1787. (*Docy. Hist. N. Y. II*:1039).

A description of the method proposed, addressed by Fitch to the Editor, under date of Dec. 8, 1786, will be found in the *Columbian Magazine,* Vol. I:174. The first trial of the boat occurred on August 22, 1787, says Morrison's *Hist. of Steam Navigation,* 6, instead of the year previous as stated on the view. She was able to make only three miles an hour. In an endeavor to correct this conflict of dates an examination of the *Pennsylvania Packet* has not assisted, for no mention thereof is made during 1786 nor for two years later.

In 1796 Fitch experimented with a yawl boat, fitted with crude machinery, on the Collect Pond in New York city. It is claimed that he made use of both side wheels, as well as a propeller in the stern. Nothing practical resulted from these experiments and the boat was abandoned, with a portion of the machinery, and left to decay on the shore of the Pond, eventually to be carried away piecemeal by the children of the neighborhood for fuel. Fitch deserved better fortune. Pecuniary and domestic difficulties pursued him and he died in Kentucky two years later.

Although Fulton made a trial of his boat on the Seine some years later, it was not until 1807 that the "Clermont" showed the practicability of steam for navigation purposes. While this experiment was successful it was made some twenty years after Fitch had blazed the way. Both made use of the waters on and around Manhattan and this fact gives fitting conclusion to these articles.



STEAMSHIP "SAVANNAH," 1819

The first Steamship to cross the Atlantic Ocean, built in New York, from which port she sailed for Savannah, Georgia, March 28, 1819, and from Savannah to Liverpool, England, May 24, 1819, arriving in Liverpool June 11, 1819.

The Windmills of Manhattan

THE STORY OF THE ORIGINAL INDUSTRY ON THIS ISLAND

BY HOPPER STRIKER MOTT

TRUSTEE AND TREASURER OF THE NEW YORK GENEALOGICAL AND BIOGRAPHICAL SOCIETY AND EDITOR OF *The New York Genealogical and Biographical Record.*

ONLY desultory reference has been made in the histories of New Netherland to the milling industry of the island of Manhattan.

Public necessity compelled the early construction of mills.

This was not only a requisite but, like the Graght (Canal) in Broad street, was a natural consequence of Dutch civilization.

Under the civil law in force in New Netherland the right to erect them was vested exclusively in Patroons or Lords of Manors. The West India Company, having reserved to itself this Island, had the legal monopoly of this branch of trade here and no one could set up a mill without its permission. Not only the circumstances attending the first settlement but the law imposed on the Government the duty of providing the settlers with the means of converting their grain into flour. Accordingly when Minuit became Governor in 1626 a horse mill was erected by his direction. Domine Michaelius, the first minister, in a letter to the Classis of Amsterdam, his superiors, referred to this mill in 1628 when he reported that "we have a grist mill." He likewise reported that a wind mill to saw lumber was in progress of construction. The latter was, at first, in the contemplation of the Indians, "the world's wonder; they durst not come near its long arms and big teeth biting the corn to pieces," as they expressed it.

During the administration of the second Director, Wouter Van Twiller, these mills had been repeatedly furnished with shafts and yard-arms for the sails and were otherwise repaired at the public expense.

In the meantime other mills had been allowed but when Kieft had assumed the directorship in 1638 only one grist-mill and one saw-mill were in operation, another was out of repair and idle and one had been burnt. The saw-mill was located on Nooten (Governors) Island. The date of the erection of the first public wind-mill is unknown. In the earliest view of the settlement—that attributed to Augustyn Heermans,— a presentment of its outlines is depicted locating it between the Fort and the East River. Visscher published a different view in 1655 in which it is represented inside the Fort, or on its northwest bastion. It must have been placed in this position prior to 1642 for when it was proposed to erect a new church within the Fort the plan elicited grave opposition. The objection was met by the alleged fact that the mill could not work on a southeast wind anyway because the wind from that quarter was intercepted by the walls of the Fort. If this be true it must be concluded that the wind-mill was not on the bastion where it figures so prominently in Visscher's view but outside the Fort. This impression is strengthened by an entry in the Court Minutes of 1656 where it is recommended to establish a graveyard on a hill west of the Fort," in the neighborhood of the wind-mill," and by a reference to the so-called Duke's plan of 1661 where its position is definitely fixed on a bluff near the North River shore, a short distance northwest of the Fort and near the present river end of Battery place. This was a grist-mill as distinguished from the many water-mills which in time found a lodgment on each water-way.

Abraham Pietersen from Haarlem, Holland, was appointed miller in 1638. He endeavored in 1640 to obtain possession of Bouwerij No. 5, from Hendrick Harmensen, the Company's tenant in occupation and on Nov. 29 brought action of ouster on the ground that the latter allowed cattle "not his own" to graze there. This Harmensen denied and, say the records, "the parties were reconciled in Court." In this year he was superceded as miller by Philip Garretsen and then became lessee of Bou-



OLD NEW YORK, 1659

A– the fort. B–the church. C—the wind mill. D—the flag hoisted to announce the arrival of vessels in port. E—the prison. F - house of the Governor General. G– the gallows.

werijs Nos. 5 and 6. On Mar. 1, 1642, he sold all the grain "sown" thereon to Jacob Barens and on April 10, of that year was put under arrest for slandering the Director General.

In 1646 Gysbert Opdyke was Commissary of Provisions and as such had to supply the Garrison and public officers with bread and flour.

In January he accused Pietersen of stealing some of the grain that had been sent to the mill to be ground. The miller retaliated by suing Opdyke for slander. The latter retorted by producing affidavits in proof of the truth of the charge, for under the Dutch law the truth could be produced in justification. Finally the Court suspended judgment and on Feb. 2, ordered that the miller should thenceforth grind the Company's grain "wind and weather permitting" before that of private persons; that he should conduct himself so as not to give the least cause of complaint, and not call, fulminate or use sharp names or language under any circumstances, on pain of being called up for judgment in the slander suit. To prevent cheating Opdyke was directed to weigh the grain on sending it to and receiving it from the mill.

The wages of the miller and the great and necessary repairs which the mill constantly required not only ate up all revenue but left a deficit which had to be met by the public treasury. The mill was in consequence soon after farmed and Pietersen opened a tavern just northeast of the bastion of the fort. But a homicide having been committed on the premises the authorities closed up his resort July 23, 1648. In August he was reappointed the official miller, for, says the record, no fitter person was to be found. Hendrick Egbertsen purchased his property in 1649 and in 1653 the miller acquired from Adrian Keyser, the vendue master, two houses on the Heere Weg. (Broadway).

As a miller Pietersen seems to have been of too choleric a temper to be popular. In the preamble of the ordinance passed in Feb., 1652, for the regulation of the windmill it is stated that "for a long time past not a few complaints have been made of the inconvenience to which the inhabitants are put because they cannot, without difficulty, get their grain ground, or if ground, it is not in such a condition as it ought to be; for which reason they

are received with abuse, curses and threats." To correct this state of things sundry laws were enacted, to wit:

Government grain was to have precedence, as usual, before that of private parties, afterwards, the rule was to be, first come first served; intending customers had to apply to the comptroller of the windmill for a permit, which had to be signed on the same day that the grain was taken to the mill, which permit gave the name of the person in whose charge the grain was and the quantity permitted. A daily account of these items had to be kept by the Comptroller for whose trouble a fee of one-half stiver for any quantity less than 3 skepels and 1 stiver for 3 or more skepels could be collected. The miller was not to receive any grain without a permit and had to keep a record of these permits and render an account of the toll he received. He was not to give credit to any one except at his own risk and, as all expenses were to be defrayed from the toll, "good pay" was required and no person was to take offence in case the miller refused poor or unassorted wampum; for according to the Proverb, "Many can carry more than one." To prevent claims and disputes proper scales and weights were provided and in order that the grain might be more easily moved no one was to bring to the mill more than 3 skepels of grain in one sack. Pieter Cornelissen succeeded Pietersen this year to be in turn followed by Abraham Martense Clock in 1655. Willem Bogardus, a son of the Domine, then a clerk in the Secretary's office, became Comptroller of the Windmill Sept. 27, 1656.

In 1658 Pietersen removed his business to a mill constructed by himself near Chatham Square. He obtained a permit April 2 of that year to erect a water-mill "at the outlet of the Fresh water, 4 rods from the Potbaker's Hill." Later he petitioned that the above permission "be so far extended that he could set it up on the strand," which modification was allowed. In order to propel the wheels Pietersen caused a trench or mill-race to be cut which unfortunately admitted the salt water into the Kolch and rendered the fresh water unfit for domestic use. The neighbors complained. The miller alleged that he had erected the mill for the convenience of the public and had he anticipated these complaints he would never have constructed it. To obviate the

objections he hung a wooden gate at the outlet of the race to exclude the tide, using the current from the Kolck only at low water to run the mill. This was in March, 1661.

Pietersen appeared before the Shepens on Sept. 6 following and confirmed a deed ceding to Jan Cornelissen de Cleyn and Ryer Cornelissen van Suysbergen the right to this mill which stood "on the shore of the East River at the Fresh Water east of the Potter's Bakery," which he intended and did convey on Sept. 7 to Jan Cornelissen of Hoorn. The latter transferred title to de Cleyn and van Suysbergen for 1700 guilders, payable in wampum. In 1662 these partners had a falling out which came to the attention of the Court, on Jan. 3, when de Kluyn charged Ryer was "not returning to the people their full measure." He demanded a "discharge" in writing and a settlement of accounts. How the matter ended is not disclosed. Dr. O'Callaghan's notes assert the site of this mill was in Roosevelt street. Innes states that the dam spanned the little creek near James and Cherry Sts. Its location is indicated at the river bank on the Duke's plan, 1664.

The original wind-mill near the Fort continued to be a tax. After six years experience under the ordinance of 1652, it was found that the revenue derived from it did not pay the miller's wages much less the cost of repairs. It was therefore resolved March 19, 1658, to resort again to the farming or leasing plan. In the course of the following year the upper millstone had become so worn as to be nearly useless and Stuyvesant wrote to the Company for a new one. The Directors in Amsterdam, in answer to his application, addressed him in Sept., 1660, in this wise: "In regard to the required Looper for the windmill, which is to be 4 feet 3 @ 4 inches in diameter, we cannot conjecture what is meant. We have enquired of several mill wrights for information but they know nothing about it. So you must transmit more precise information."

"Looper" seems to have been either a technical or a Provincial term for the upper millstone which runs or revolves on its pivot or axis. It would appear that an explanation was later obtained for a pair of millstones were subsequently shipped on board the "Love." This vessel, however, met with an accident

coming out of the Texel. She was obliged to put back for repairs and the needed stores did not arrive at Manhattan until 1661. The enormous expense incurred annually for the cartage of grain to and from the mill and for other government transportation rendered it necessary now to purchase a yoke of oxen or pair of horses and orders were accordingly issued for that purpose.

Jan de Witt became miller in 1661. He was a man evidently economical of his time, so, in order to save his capital, he devoted himself one Sunday to the labor of "picking his millstone." The laws were stringent and Stuyvesant a strict Sabbatarian and Jan was fined, Oct. 16, 1662, six guilders and costs with a warning not to repeat the offence nor grind on that day except in case of necessity.

The mill continued to be used until 1661 when it was crumbling to ruins. The locality where it had so often waited for a change in the southeast wind and where it so long stood to warn the Brooklyn ferryman not to attempt to cross when it furled or took in its sails was soon to know it no more forever. The fiat was about to go forth that it should move "up town." New York at this day is still following this example.

This "the old mill" must have been still standing at the time of the surrender to the English in 1664 for it is mentioned by that title in the 23d article of the terms of capitulation. It was stipulated that three copies of the King's grant to the Duke and of his Royal Highness' commission to Col. Nichols, attested as to their authenticity by two of the Commissioners and Gov. Winthrop, were to be delivered to "the Hon. Mr. Stuyvesant on Monday next by 8 of the clock in the Morning."

Extending along the now Park Row from Chambers street to the Kill which traversed the present line of Pearl street, was situated an eminence known as Catiemuts, which made it necessary for travellers in the early days to turn from following the straight and narrow path in order to round the hill. The Indian tongue is the source of so much of our geographical nomenclature that authorities on Indian place names were consulted in order to account for this odd designation, with the finding of the prefix Cata, signifying "Chief," "principal," "great," etc.

(Tooker, 36). In the sense of being the principal topographical feature in the neighborhood this seemed promising but the last syllable was not so easy to identify. In fact it baffled all efforts. Then came to our assistance the language of the early settlers and here very quickly was found its etymology. By reference to the dictionary (Sewel's 1707 ed., 281,676) the name is shown to be composed of two words, viz: Kaatjes in the possessive and muts, meaning Katy's Bonnet and this conclusion is endorsed by Bingman Versteeg, the librarian of the Holland Society, a Dutchman born. Either the hill resembled the shape of the women's hats of the period or some local occurrence of which this location was the scene affixed the name upon it. Possibly the selection of the word Katy meant just any woman, that being a common feminine appellation.

On this hill, outside the Langpoort and near the Company's bouwerij, Jan de Witt, a miller, and Denys Hartoogvelt, a carpenter, proposed in 1662 to erect a windmill if they were allowed the burrstones, the wooden and iron work of the Old Mill, at the later Battery place. After a lengthy discussion with Stuyvesant and his Council a contract was concluded whereby they agreed, Nov. 22, to construct a mill as soon as possible on a lot to be granted them 20 rods square. They and their successors were bound to grind, free of toll, 25 skepfuls of grain weekly for the Company should such quantity be required, but they were at liberty to grind, "at the new mill to be constructed by them without paying the Company or Government any seigniorage for the use of the wind." (*N. Y. Col. Mss.*, 10:245) Hartoogvelt withdrew from this contract the same day and it was assigned to Jan Teunissen from Leerdam (*Cal. D. Mss.*, 241).

DeWitt and Teunissen thereafter laid out a garden, built a dwelling-house and erected a windmill on the lot. One of the hands employed was one Elias Jansen. A pound of candles having been found missing from the mill de Witt accused him of having purloined them. Jansen hotly denied the charge: "It was not true—He was as honest as his Master," and then suggested that the dog might have eaten them. Whereupon, as he was seated on the millstone, de Witt struck him. So on January 22nd, 1664, the Schout haled the miller to court where he prose-

cuted him for having beaten Jansen "so that the blood flowed." Jansen now demanded 100 gl. and a new good gray hat which he claimed was promised him for his services at the mill until the following May, he having been discharged before that time. This claim was compromised by Jansen receiving pay for the time he actually served, as he preferred quitting the miller's employ "for if he remained they would always be in a broil." De Witt then accused the Schout with having bribed the witness and paid for the affidavit. For the contempt thereby shown and his "indecent language" he was fined 6 gl. and for the assault 10 gl., "in consideration that it was his man he beat."

Teunissen got mixed up in the quarrel so that they dissolved partnership and de Witt conveyed his half of the property by deed, May 31, 1664, to Claes Jansen van Langendyck (Hol. Soc. Y. B., 1900, 158) for 425 gl. in wampum. Teunissen sold his interest Aug. 26th 1666, to Willem Aartzen and on October 3rd, 1667, a confirmatory patent was issued to said Langendyck and Aartzen for this windmill and other appurtenances.

In consequence of the obligation to grind a certain quantity of grain free of toll for the Government this mill was later known as "The garrison mill." After the advent of the mill the hill became Windmill Hill and it was here at 8 o'clock on the morning of May 12, 1672, that Gov. Lovelace reviewed the three militia companies of New York, for Catiemuts, on the northern part of the City Hall Park, was then the place of general rendezvous.

The subsequent incidents connected with the Garrison Windmill will be found of uncommon interest. Jasper Nessepat, a baker, (*Mins. C. C.,* 1:176) who, in 1682, had petitioned for a grant of land for the erection of a gristmill at what later became the foot of Cortlandt street, and had abandoned the enterprise in favor of Pieter Jansen Mesier his co-petitioner, came into possession of this mill at Catiemuts. It had been in his hands "for several years" prior to 1689, in which year it was struck by lightning and destroyed. (*N. Y. Col. Mss.* 39:15). It was probably rebuilt, for by a city ordinance of 1714, the burning of oyster shells on the commons, south of the "windmill commonly called Jasper's mill" was prohibited. It is on record that Nes-

sepat had another mill in operation at the time of this accident, which may have been the de Meyer mill at Duane street.

Nessepat's personal history, says Dr. O'Callaghan, in his original notes on windmills, becomes mixed up with that of the windmill on the common and as it throws some light on the political doings of these days and has not been mentioned or touched upon by any of our historians it will not be out of place to dwell upon it here and especially as this locality was the theatre of many of the happenings related.

Already a widower, Nessepat married in 1685 Machtelt de Riemer, a sister of the wife of Domine Selyns and the widow of Nicholas Gouverneur.* (Riker's *Harlem,* 813).

He thus became stepfather of Abraham Gouverneur who afterwards figured with Leisler in the events of these times. This connection brought Nessepat into trouble, for in 1691, he was represented to Gov. Sloughter as one of Leisler's favorites and suffered many threats in consequence. Finally the Governor acted so effectually on his fears that he forced the poor man to enter into a bond of £500 to rebuild the old Garrison Windmill before the first of May, 1693. Meanwhile he was to grind at his own mill for the garrison, toll free. He continued the victim of this exaction during the whole of this reign of terror.

Gov. Fletcher having succeeded to the Government, Nessepat presented a petition on Nov. 24, 1692, setting forth the foregoing facts. He declared that it would ruin him to rebuild the old windmill as there was no prospect of work for it except for the garrison. The expense would, therefore, be entirely useless. He concluded by praying that his bond be cancelled and that he have a grant of said mill and of the ground on which it stood at a moderate quit-rent. (*N. Y. Col. Mss.,* 39:15).

The bond and covenant were accordingly cancelled on condition that he enter into new covenants and a bond with proper sureties to complete the mill, as per the original agreement, at the end of two years from May 1, 1693, and to grind in the meantime at his own mill 25 skepfuls of wheat a week for the garrison.

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*Margareta Selyns, widow of the Domine, mentions in her will dated Jan. 25, 1711, her sister, Machtel Nessepat and the latter's children, Abraham Gouverneur, Isaac Gouverneur and Elizabeth Nessepat. (*His. Soc. Coll.,* 1893, 115).

He was promised on the completion of the mill a patent for the premises, reserving to the crown the aforesaid services and no other.

The unfortunate miller's troubles were, however, not yet over. A letter written from Boston by his stepson Abraham Gouverneur and addressed to his parents, had fallen, somehow, into the hands of the government. This letter having been laid before the Council was considered seditious and tending to influence the mind of the followers of Leisler. Nessepat was thereupon arrested and brought before the Council Jan. 5, 1692-3. On examination it turned out that he had never seen or heard of the letter and he was discharged. He seems, however, to have failed in the fulfillment of his contract, for he was again arrested in a suit for trespass brought by the Attorney-General, probably for failing to grind the 25 skepfuls of wheat a week for the garrison, which was considered a quit-rent.

To be relieved from this suit he again petitioned the Governor and Council April 2, 1695, and asked for a new grant at a less onerous rent. In accordance with this request a new patent was issued the same date which recites the fact that Nessepat was in possession "of a certain Winde Milne and ground thereunto belonging, scituate near the Common of New Yorke, containing northwest twenty rods and a like quantity on the southwest, northeast and southeast" (being the identical lot originally granted to de Witt in 1662) and confirms the same to him on condition that he grind toll free (not for the Garrison but) for the Governor for the time being, four bushels of corn once a week, if the same be demanded and that he pay, in addition, an annual quit-rent of five shillings. (*N. Y. Col. Mss.*, 7:124).

During the administration of the Earl of Bellomont, the Leisler party were in the ascendant and Abraham Gouverneur, Nessepat's step-son, was Recorder of the City. So the remainder of the miller's life was free from persecution. In 1700 he asked permission to build a mill at Kingsbridge and on Jan. 16, a committee of the Common Council was appointed to view "the place on which Jasper Nessepat intends to build a mill" at that place. (*Mins. C. C.*, 2:97). A grant thereof under certain conditions, was ordered delivered to him by Mayor Isaac de Riemer,

The new seal of the city granted by James II, in commemoration of its commercial supremacy in the milling business, and of the bolting privilege which was confirmed to it in 1686, contained the four arms of the wind mill conjoined; two flour barrels and two beavers. The crown was replaced by an eagle in 1784. In 1698 New York was granted the exclusive right to bolt flour and pack it into barrels for export. In 1694 six hundred of the nine hundred and thirty-eight stores and warehouses in the city were connected with or dependent upon the trade in flour.



Seal of the City.

which is of record in Book of Grants, Comptroller's office, 2:388, dated Jan. 29. For particulars *Vide Mins. C. C.,* 2:98,113,134. Before he moved he lived in the Brouwer Straet, (Brewers' later Stone street), the pavement of which was ordered newly laid from his house to that of Brandt Schuyler on the Heere Gracht, on Aug. 8, 1687. (*Ibid,* 1:189). He died about Sept., 1702 in which year Cornbury became Governor.

Having died intestate Nessepat's widow, in an honest and laudable desire to pay her husband's debts, applied for letters of administration to John Brydges, the Surrogate, at whose hands she took the oath of administratrix and paid the required fees. So far all well, but the persecution which grew out of the Leisler conspiracy was yet to pursue the family. Some few days after the above adventure the widow applied to Daniel Honan, Secretary of the Province for the letters and was informed through her son, Abraham Gouverneur, that Lord Cornbury had commanded him not to issue them. Repeated applications by Gouverneur followed without result and his Lordship finally threatened to commit him to jail, if he persisted. The consequence of this illegal and tyrannical conduct was that the widow could not collect the debts due the estate, whilst the creditors forced the payment of their claims by threats of legal proceedings. In order to satisfy these claims and to save as much as possible of the estate, Mrs. Nessepat caused the principal and most valuable part of the iron work of the Garrison windmill "nigh the city," which was then fallen greatly to decay to be taken out in order to secure it from embezzlement. Whilst having it removed to her house, Capt. Peter Matthews, who commanded the Governor's Company and Ebenezer Willson, Sheriff of New York, seized the property without producing either order or warrant and retained it some six years or during the remainder of Cornbury's administration.

When Lovelace assumed the Government in 1709 the widow Nessepat presented a petition Jan. 13 setting forth the above facts. Matthews and Willson were ordered to show by what authority they took the property. Willson pleaded Jan. 20, that he had seized it for the use of the Queen as he thought it belonged to her Majesty. Mrs. Nessepat thereupon produced the

patent of 1695 to prove that the property belonged to her late husband and the Council ordered it to be restored to her. We can easily conceive how gross was this outrage on private rights when we reflect that the patent now produced was all the time of record in the Secretary's office and would show to whom the property belonged if there was the least desire to act honestly. But there was none. (*N. Y. Col. Mss.* 10:272,277)*

Numerous official documents and maps establish the precise location of this ancient landmark. It will be found laid down on the map of the Island of Manados in 1664. (*Val. Man.* 1863). It is also a prominent object in the views of New York, 1667, (*Ibid*, 1851:136) and in the view of New Orange, 1673, on Hugo Allard's map of New Netherland.

In Dec., 1723, land near the windmill formerly of Jasper Nessepat, near the Commons, was surveyed with a view of laying out at regular width the high road now known as Chatham street. (*Mins. C. C.* 6:336). On July 29, 1740, permission was granted to finish a street already begun from Broadway east through "the hill by the windmill." During the progress of the above work the mill disappeared. In the Act of Nov. 7, 1741, for removing doubts as to the course of the new road from Broadway to the Fresh Water (i. e. via Park Row and Printing House Square) it was provided that it should run through the hill by the house of Capt. John Brown "where the windmill stood," until it meets the old road. Evidently designating Windmill Hill. But the locality is put beyond all doubt by a minute of the Common Council, Mar. 14, 1759. This contained an order to let several lots of ground belonging to the Corporation "between the New Goal and the house commonly called Catiemuts." It is to be concluded from this evidence that Catiemuts' house was the house of Capt. John Brown, where the windmill stood.*

*The story of Nessepat's persecution by political enemies was written by Dr. O'Callaghan and is extracted from his original notes at the N. Y. Historical Society. They are based on items in the *N. Y. Col. Mss.* at Albany which have not been printed. Unfortunately the most of the volumes in which they were contained were consumed in the Library fire.

*By the 6th Sec. of the Act of 7 Nov., 1741, for mending and keeping in repair the Post Road from N. Y. to Kingsbridge it was provided that "as doubts and scruples have arisen about the course of the road from Spring Garden gate, at the end of the Broadway, towards Fresh Water, that the said road shall forever thereafter be on through the new road lately cut through the hill, by the house of Capt. John Brown where the windmill formerly stood, until it meets the old road.

A public garden and place of entertainment was kept here, says the *Manual* of 1856: 470 and the *Mem. Hist.*, II:397 speaks of Van de Water's, otherwise Catiemuts' Tavern.

Just beyond the northerly confines of Catiemuts was another mill the site for which was granted to Nicholas de Meyer, Sept. 29, 1677. It is described as a small piece of land "to set a windmill upon" lying by the edge of the hill near the Fresh Water ranging southeast by the edge of the hill, being 8 rods square or 1 quarter of an acre and 24 rods. The quit rent was one bushel of good winter wheat per annum. A survey thereof was made by Robert Ryder under orders of Major Andros, Oct. 17. This lot and mill stood on the north side of Chatham street at the junction of Duane and appears to be laid down on the Grim map, 1742-3, as lying just inside the palisades on that street. These two mills were the immediate successors of the mill at the Fort.

After Meyer's death the property was partitioned and on July 20, 1691, deeds were exchanged whereby one-half of the windmill lot and one-third of the house and ground were conveyed to a son-in-law, Jan Willemse Neringh, of Newcastle, Del., who married Anna Katrina, 1661, "the burying place nigh the mill excepted," one-third to Henricus de Meyer of said lot with a third part of the small house and lot belonging to said windmill, excepting the burial place and the remaining one-third to Philip Schuyler, who married a daughter, Elizabeth, 1666, without any exception of the burial place. Henricus married Agriete de Key whose family owned part of the land lying on the further side of the Fresh Water, originally of Wolfert Webber, whose assigns conveyed it to William Merritt in whom it was confirmed by patent Nov. 25, 1686.

Merritt, who was Mayor in 1695, 6, 7, and Marjory, his wife, conveyed it, with other property, May 10, 1698, to William Janeway, purser of H. M. S. Richmond, which was commanded by

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Wednesday, March 14, 1759. The Board was ordered to meet on Saturday afternoon at 2 o'clock near the new Goal House in order for the laying out in lots some ground belonging to the Corporation between said Goal House and the house commonly called Catiemuts. (*Mins. C. C.*, VI:165.)

May 20, 1759. Ordered that the Clerk of the Board prepare advertisement to be put in the public or weekly Gazettes for letting to farm several lots belonging to the Corporation lying between the New Goal House and the dwelling house of Capt. John Brown, near the palisades where the windmill formerly stood. Terms 21 years to the highest bidder. (Ibid. 167.)

Capt. Evans, notorious in New York history in connection with Fletcher's extravagant grants. Janeway had married, 1695 or 6, Agnes, daughter of Jacob Teunis de Key and on his quitting New York in 1698 left power of attorney with his wife and others, who, on Dec. 5, 1699 mortgaged to her brother and father, Teunis and Jacobus de Key, bolters or millers and John Corbett, mariner, all his estate in New York, together with all the tenements, buildings, windmills, etc., thereon.

The de Meyer property, which descended through Henricus to his son, Henry, remained undivided as late as 1735, on April 1st of which year the latter conveyed to his daughter, Agnes, his title and interest to the one undivided one-third of the above lot and windmill together with a gift of £100 New York currency, which deed was recorded Jan. 23, 1739-40 (L. 14:42). Henry de Meyer died in April, 1739.

In the view of New York appended to Henry C. Murphy's translation of the Journal of Dancker & Sluyter, who visited the city 1679-80, windmills are prominent objects north of the city gates and Capt. Mackenzie, writing to Col. Nicholson in Aug., 1689, says that he came down from Albany and in order to save from the Leisler party the letters he had brought, he caused the skipper to put him ashore "above the windmills." (*Hol. Docs.*, 111:612). Both of these mills as well as that at the future foot of Cortlandt street are laid down on the Rev. John Miller's map. He was Chaplain to the Garrison 1693-4.

This third windmill was that which Nessepat and Mesier erected at the later foot of Cortlandt street. In 1644 Jan Jansen Damen obtained a grant of all that tract lying between Broadway, the Hudson River, and Fulton and Thames streets. After his death the farm was divided into three lots. Teunis Dey became, in course of time, the owner of the northern lot, through the centre of which Dey street now runs. The middle lot was sold 1668 to Oloff Stevensen van Cortlandt and the southern, bounded by Thames street became in 1686 the property of Thomas Lloyd afterwards of Philadelphia.

The middle or Van Cortlandt lot, with a frontage of 250 feet on Broadway, appears to have been eventually intersected by a nearly north and south line, the east portion of which fell to Van



A DUTCH WIND MILL

Cortlandt's daughters, Maria and Sophia. The west part seems to have been acquired by one Peter Jansen Mesier, who was an old inhabitant, and in 1673 had occupied a house and lot near the fort. This house having been demolished by Gov. Colve, Mesier asked for a lot on the river side, which, however, he did not obtain at that time. In 1682 he with Nessepat as a partner petitioned for a grant of land on the Commons on which to erect a windmill. Nessepat removed from the city and Mesier built the mill on the bluff towards the North River.

The map of 1695 locates it as lying near the water front on the line of Maiden Lane if extended westerly. While Lyne's survey (1729) does not mark the spot yet it does lay down the Old Windmill Lane which led to it from the west side of Broadway, about opposite Maiden Lane, and outlines the later Cortlandt street. The Windmill Lane was closed before 1749. (Deed Wenham to Ludlow, *Manual,* 1860:530).

On Oct. 16, 1669, Mesier made an application for a grant of the riparian rights in front of his "purchase on the North River," which grant Wm. Nicoll endeavored to prevent by filing a caveat against it. The latter was ordered Dec. 3 to appear before the Board and enter his objections had he any. This amounted to nothing for in Jan., 1700, a committee was appointed to wait on Mesier and agree on a price for the water grant fronting "his house and ground where he now dwelleth by Hudson River" and when their favorable report was presented in March it was agreed that on the payment of 20 pounds N. Y. currency a grant would be executed with the proviso that the grantee should not inclose the same or build on, or lay any dock or wharf until such time as the ground on the north side of his property and between it and the King's Farm was docked or wharfed, but that the same should continue a public place for fishing or passing through as at present. Whenever such dock was constructed a street 40 feet wide at low water must be opened in such manner as the street to the south, as contemplated by John Hutchins, which street should remain a public highway forever.

On March 10, 1767, the ferry to Powlus Hook (Jersey City) was established. There were two opinions in the Common Coun-

cil as to its N. Y. terminus, one party wanting the landing place to lie somewhere between Alderman Nicholas Roosevelt's and Deys' Docks and the other at the foot of Cortlandt street which was finally the spot selected. Lease was entered into with Jacob Van Voorhes, merchant, for 4 years from May 1, of the above year at £310 yearly. His partners in the enterprise were Abraham Mesier, Abraham Bussing and Peter Mesier, Jr. At the end of the term Abraham Mesier assumed the lease for three years at £120.

There were two other windmills of note. Out beyond Catiemuts at an eminence called Werpoes by the Indians (the site of later Chatham Square), was the mill of the Rutgers family. Situated on a prominence and overlooking to the west the Jew's burying ground, a part of which this race acquired in 1656 by grant from the Dutch authorities, this mill was used originally in the prosecution of this family's business as brewers. The date of its erection is unknown. It is shown first on the Ratzer map of 1767. On the map of the estate, drawn by Marschalk, its site was on lots Nos. 168, 326 and 327. Prior to 1792 the firm of McLachlan & Buckle carried on the brewery business thereon and in that year purchased the property, the first two lots from Josiah Furman, a painter and glazier, and the other from Henry Rutgers. In 1796 Buckle transferred his interest in the business to his partner for £5500 ($1,870).

On the southern projection of Bayard's Hill stood a mill which was a notable feature of the neighborhood. Just as the Rutgers used their mill as an adjunct of their business so was this used by the Bayards. The first map on which it appears is that of Lynes (1729) and then on the Loudon map (1757) and Ratzer (1766-7). Its location is definitely fixed on the later Ratzer map (1767) as lying on the west side of Bowery Lane, between Nicholas (Canal), Hester and Elizabeth streets. When these streets were projected some deference was apparently made to this edifice, the principal entrance to which was from the Bowery and even when that highway was closely built upon a space embracing eight lots led to the mill. At the date of this last mentioned map it was in use by Frederick Sigesmonts Lentz as

a snuff-mill. He advertised his business there for sale in the *N. Y. Journal* of April 2, 1767.

Six of the lots, containing its site, were sold by Nicholas Bayard to George Traile, snuff maker, by conveyance dated April 16, 1771, Consideration £300, N. Y. Currency. He had been in possession of the property for a year previously under agreement. The mill is not mentioned in the deed. It stood on the rear of lots Nos. 110 and 111, near Elizabeth street and was advertised for sale in the same paper of April 23, 1772, as "the mill situate near the Bull's Head Tavern, now in possession of George Trail."

Traile mortgaged these six lots April 22, 1771, to Nicholas Bayard for £300, and here again the mill is not specified and again on Aug. 28, 1773, to James Penny, for £100, being "the lots whereon the windmill stands in the Bowery Lane." He later borrowed "a further sum" from Bayard to whom he executed a third mortgage, and on March 17, 1775, made an assignment in trust to John Wetherhead and David Stiles by whom the property was exposed for sale, when Penny and Bayard bid it in for £475. This recital is contained in the conveyance from the assignees to them, dated May 26, 1775.

The mill is depicted on the Montresor plan (1775) and on that of Holland (1776) in which year one William Davidson was proprietor. (*N. Y. Gazette, July* 29, 1776). It is said to have been used by the British invaders and to be still standing after the Revolution, the last relic of that kind of structure in the city. The mill disappears from the map of 1789 and later ones.

The new seal of the city granted by James II in commemoration of its commercial supremacy in the milling industry and of the bolting privilege which was confirmed to it in 1684, contained the four arms of the wind mill conjoined, a flour barrel and the beavers. This latter symbol was retained from the Dutch Seal of 1654. The English seal is now that of the city with the exception of the crown which was replaced by an eagle in 1784.

It seems not only singular but remarkable that historians have failed to give attention to an industry so important as that above narrated and which was of such early establishment on our island.

George Washington Custis Lee

An Appreciation

BY W. GORDON MC CABE, LITT. D., LL.D.

General George Washington Custis Lee, born Sept. 16, 1832, died Feb. 18, 1913, was a life member of the Virginia Historical Society and the subject of the following eulogy presented by W. Gordon McCabe, the president of the society at the annual meeting held in the house of the Society in Richmond, Virginia, on February 24, 1914. In order to introduce the orator to our readers we will briefly add that he is the son of the Rev. John Collins McCabe and Sophia Gordon (Taylor) McCabe and was born in Richmond, Va., August 4, 1841. His father was a well known poet and antiquarian, and his mother a great-granddaughter of George Taylor, a signer of the Declaration of Independence, born in Ireland in 1716, died in Easton, Pa., Feb. 23, 1781. W. Gordon McCabe was prepared for college at the Hampton Academy, where he won the gold medal twice and was graduated valedictorian of his class 1858. He was graduated at the University of Virginia A. B. 1851, and received the honorary degree of A. M. from William and Mary College in 1868, from Williams College in 1885, that of Litt. D., from Yale in 1897, and LL.D from William and Mary in 1906. He was a soldier in the Confederate Army 1861-65 entering the rank as private and reaching the rank of captain of artillery in the 3d corps, Army of Northern Virginia commanded by Lieut. Gen. Ambrose P. Hill and upon the death of General Hill, April 2, 1865, attached to the First Corps, Lieut. Gen. James Longstreet. At the close of the war he established the university preparatory school in Petersburg and Richmond, and conducted it successfully up to 1901. He was a visitor at the University of Virginia 1888-92, and vice-rector 1892-96; commissioner and director of the Jamestown Exposition, 1905-7; president of the Virginia Historical Society; president of the Virginia Society Sons of the Revolution, 1907-9; historian general of the General Society Sons of the Revolution, 1908-11; vice president of the Society Descendants of the Signers; president of the Society of the Cincinnati in Virginia; colonel commanding O. P. Hill Camp United Confederate Veterans in 1880 and again 1890-95; member of the Virginia Gettysburg Monument Commission; president of the Program Battalion Association of Veterans and vice president of the Phi Beta Kappa college fraternity. The Union Club of New York elected him to membership as did the Westmoreland Club of Richmond. He married April 9, 1876, Jenny Pleasants Harrison Osborne. He translated from the German of Wilhelp Brambach *Latin Orthography* (1877) and is the author of *Defense of Petersburg* (1876); *Ballads of Battles and Bravery* (1879); *A Grammar of the Latin Language* (1884); *Latin Reader* (1886); *Caesar's Gaelic War* (1886); *Virginia Schools before and after the Revolution* (1890); *Bacon's Rebellion of 1676*; *Memoir of Joseph Bryan* (1909).

ONLY a single life member of the Virginia Historical Society has been lost to us since our last report one year ago, yet is the loss one that has brought such poignant sorrow to kinsmen, comrades and friends, that despite the fact that he has passed four-score and finally fell asleep full of honors, revered and loved by all who knew him,

we scarce can measure in words our unaffected grief at the passing of so noble a life, though well we know such "Life is perfected Death."

Outside his immediately family, few people, perhaps, might claim to know him intimately, yet, reserved as he was, with a nameless touch of aloofness due to innate shyness, such was the compelling charm of his old fashioned courtesy, his ready sympathy with distress, his almost quixotic generosity to those in need, that men and women instinctively came to love this grave and silent gentleman, whose simplicity and kindliness unconsciously won their abiding confidence and regard.

Probably, if the dead concern themselves at all with things of earth, he himself would prefer that his name should be passed over in silence and that no public utterance should vex the eternal quiet of "the keyless house."

So long had he lived the life of a recluse, so persistently, in his later years, did he guard his seclusion from the outer world, that it is not improbable that few of the general public, outside his native State, knew that he was still alive.

Yet, in his unobtrusive way, had he done much good service to nation as well as state, and, had fate willed that he should have been rated according to his great talents and varied accomplishments, had fortune, in homely phrase, "given him his chance," certain it is that his place in the world's eye had been a very high one, and that his name would have been linked for all coming time with the greatest of that noble stock from which he sprung.

But the hard truth is that the malice of fortune *did* deny him his full "chance"—his "heart's desire"—"most just and right desire" (in Shakespearian phrase)—and though many "honors," as the world counts "honors," came to him in his long life—Professor in Virginia's famous military school—President of a great University—degrees in plenty and honorary fellowships from universities and learned societies at home and abroad—who of us that often looked upon the sweet austerity of that patrician face, touched with gentle melancholy and tranquil dignity—who of us that did not divine that he himself, modest as he was touching his own abilities and deserts, felt in his "heart of

heart'' that his life was, what the French in pregnant fashion term, *''Une vie manquee!''*

In the contemplation of his career, one cannot, indeed, escape the constant suggestion of the touch of tragedy, despite the lofty reflection of England's greatest laureate that the path of duty, firmly trod, is ever the way to real glory.

Consider: he came of a great race—his name was the synonym of all that was highest and noblest, not in Virginia alone, but in the nation—he was a soldier born of soldiers, and, despite the fact that he was heir to a great estate, bequeathed him by his maternal grand-father, Washington's adopted son, he had deliberately chosen the stern profession of arms as the calling closest to his heart—no strange choice for the son of Robert E. Lee and the grandson of ''Light Horse Harry.''

In June, 1850, when not quite eighteen, he entered the United States Military Academy at West Point, and, after four years of severest study (during which time he received not a single mark of demerit, so punctilious was his observance of all rules of discipline and duty), in June, 1854, was graduated first in his class. Just twenty-five years earlier, his illustrious father had graduated there second in his class, though it must be allowed that the class of '29 was far more distinguished for ability than the class of '54. For seven years thereafter, he served with marked distinction in ''the Engineers,'' the *corps d'elite* of the army, receiving repeated commendation from his superiors for skill in the construction of forts from the Atlantic Coast to the Pacific, and especially for his able work in river improvement—all of which led to his assignment to duty in the ''Engineer Bureau'' at the seat of government.

Then came the Secession of the Southern States, when every Southern officer of the Army and of the Navy must needs meet the question whether to adhere to the Union, or to draw his sword against his native state.

His father left him absolutely free of all influence of his to decide the momentous question. ''Custis,'' he writes to his wife, ''must decide for himself, and I shall respect his decision, whatever it is.''

But that decision was never for a moment in doubt, for there

was bred in his bone the feeling of his grand-father, "Light Horse Harry," who exclaimed, when the "Virginia and Kentucky Resolutions," foreshadowing Secession, were under discussion in the Virginia Legislature, in 1798—"Virginia is my country; her will I obey, however lamentable the fate to which it may subject me."

When on May 25, 1861, the die was cast, and, resigning his commission in the army, he resolved to offer his sword to his mother-state, it is safe to say that all those who knew him best (including his father, ever temperate in his estimate of the abilities of even his own sons) entertained no shadow of doubt that a brilliant military career lay open before him in the conflict impending between the sections.

He was then in the very flower of his young manhood (not quite twenty-nine) and of high and imperturbable courage, as was to be expected of one of his "valiant strain." He had received, as we have seen, the severest professional training, was as cautious of judgment as he was sparing of speech, and even those comrades, who were resolved to oppose him, reckoned him, so we now know, as ideally equipped for the great business of war.

Thus, he came to Richmond in May of '61, eager to give proof in a cause he held most righteous of "the mettle of his pasture," and almost at once (oh! malicious fortune!) was assigned duty in Richmond, as aide-de-camp to President Davis, with the rank of colonel of cavalry.

Had the assignment lasted but a single year, it had been hard enough to a young soldier, who had inherited the old fighting Berseker blood, and who, though modest, was yet but mortal, and could but be conscious of his fitness to share with kinsmen and class-mates the glories of that immortal army, that was destined to write its name so often in the very "Temple of Victory."

He had looked for command in the field, but "*Dis aliter visum,*" and Mr. Davis saw fit to retain him at the seat of government during the whole of those four eventful years. We do not know positively that the silent young aide ever uttered one word of formal complaint.

His habitual reticence was never pierced, save, perhaps, by one, and that one, his father.

But is it not all easy to divine by those, who know the temper of his breed?

Consider, again, what it must have meant to him to attend day by day confidential conferences at the Executive Mansion, while those, knit to him by blood or youthful friendships, were yonder "at the front," winning high rank and dazzling a world with deeds.

For the rank he cared no whit, for we have Mr. Davis's explicit statement that he repeatedly offered him promotion (long before he finally consented to accept it), and that he as steadily refused it. "The only obstacle to be overcome," writes Mr. Davis, "was his own objection to receiving promotion. With a refined delicacy, he shrank from the idea of superseding men, who had been actually serving in the field."

It was said at the time, and is still constantly repeated, that he spoke to his father on the subject, requesting most earnestly field-assignment, and that the latter told him that his highest duty was obedience to the will of his superior.

The story is, probably, as apocryphal as the letter alleged to have been written to him by his father when Custis Lee was a cadet at West Point, in which occurs the oft-quoted platitude—"Duty is the sublimest word in our language;" a letter spurious beyond question, yet one that having caught the popular fancy is as hard to "kill" as the myth of "Barbara Frietchie," and destined, no doubt, to as long a tenure of popular credence.

True, he rendered eminent service in the position he held, and the President bears emphatic testimony to the great weight he attached to his sagacious counsel. Above all other members of his staff, Mr. Davis entrusted to him delicate missions (of a nature too confidential to be set down in writing) to his father, and to other generals commanding in the field. Much of highest import to the future historian he could have told, after the war, touching these inside shapings of events, but, as might have been surely predicted of a man of his temperament, he would neither talk nor write about them, and their secrets died with him.

But the position at best was a trying one, and no one but a soldier can fully understand what this enforced duty meant, as the heroic years went by, to a man of high spirit and consummate military equipment.

While, as said already, he cared little for the rank his classmates and kinsmen were steadily winning, Custis Lee was too good a soldier not to care immensely for what that rank signified. Above all, it must have been well nigh intolerable to him that, all question of rank and "glory" apart, he should not be allowed to share their hardships and to brave with them the chances of honorable wounds and noble death.

Of "the class of '54," whose highest honors he had achieved, the records show, allowing for deaths and resignations, that twenty-four espoused the Union side, of whom four fell in battle, the first to fall on either side being Lieutenant John Grebble, U. S. A., who, at the early age of twenty-seven, died a soldier's death at Big Bethel, fighting his guns to the last. Fourteen of that class, including Custis Lee, cast their fortunes with the South. Of these fourteen, four served on the staff and rose only to "field rank," while ten became general officers.

Of the ten, *eight* (think of it!) yielded up their lives for hearth and home and country.

'Tis a glorious roll, and we, the lingering few, whose humbler part it was to follow where these captains led, like Harry's veterans, on "St. Swithian's day," still "stand a tip-toe," when that roll is called.

Here it is in brief:

"Jeb" Stuart, of Virginia, barely 31, yet Major-General and Chief of Cavalry of the "Army of Northern Virginia," mortally wounded yonder at Yellow Tavern, while staying with a handful of troopers the enemy thundering at our gates.

William D. Pender, of North Carolina, Major-General, though still in "the twenties," mortally wounded, while leading in, with all the fire of youth and skill of age, the "Light Division" on the third day at Gettysburg.

John Pegram, of Virginia, "as full of valor as of kindness, princely in both," commissioned Major-General, though the com-

mission had not reached him, when he fell at the head of his Division at "Hatcher's Run" in '65.

James Deshler, of Alabama, Brigadier, who died in the fiery van of his cheering Texans on Chickamauga's crimson field.

"Archie" Gracie, born in New York, but adopted son of Alabama, Brigadier, who ever held his front with grim tenacity, instantly killed in the trenches of Petersburg.

Horace Randall, of Texas, Brigadier, whose "vigor, energy, and daring" (to quote the words of Dick Taylor's official report) were everywhere conspicuous, mortally wounded in the battle of Jenkins Ferry, Arkansas.

John T. Mercer, of Georgia, Acting Brigadier, who died sword in hand at the head of his stormers in the victorious assault on Plymouth, N. C. in '64.

One other name there is—that of John D. Villepigue, of South Carolina, Brigadier, but already marked out for higher rank, who ill, yet refusing "sick leave," stuck to his men and died of exposure at Port Hudson, at the close of '62, yet not before his sword had been forged to heroic temper by fire of battle at Fort Pillow, at Corinth, at Shiloh and elsewhere.

Of the two survivors of these ten, both were of the same name —allied, indeed, in spirit, but not by blood—Custis Lee and, his junior by a year, Stephen D. Lee, who, like "Edward Freer of the 43rd," "could count more combats than he could years," and who, "with all his honor-owing wounds in front," closed his brilliant military career as Lieutenant-General and Corps Commander.

Of Custis Lee's close kinsmen, his younger brother, William Henry Fitzhugh, became Major-General of cavalry before he was 27, while his first-cousin, gallant "Old Fitz," Stuart's "right-bower" (as the latter loved to call him), became Major-General before he was 28.

Such were the class-mates and immediate kinsmen of Custis Lee, who assuredly, had fortune given him his "heart's desire," had proved himself the peer of any of them.

In June, 1863, Custis Lee, himself, consented to become Brigadier, having been placed in command, in addition to his staff duties, of the troops garrisoning the "Defences of Richmond."

These "Defences" he greatly strengthened with trained engineering skill, and so improved the discipline and general efficiency of the "heavy artillery" under his command, that, later on, in Oct. '64, he was raised to the rank of Major-General and assigned active command of all the outlying troops about the city, including the forces at Drewry's and Chaffin's Bluff.

During the autumn and winter of that tragic time, when Lee with his handful of veterans of confirmed hardihood was still confronting the cruel odds of Grant with unabashed mien, Custis Lee was repeatedly under fire and bore himself with the serene courage of his race.

But the bitter end was fast approaching, and when Richmond was evacuated on the 2nd of April, 1865, and her garrison troops, under Custis Lee, taking the field as a skeleton Division in Ewell's skeleton Corps, joined the gaunt remnant of the "Army of Northern Virginia" on the "Retreat," the hope of a successful issue of the desperate venture was, in truth, but the forlornest of "forlorn hopes."

But his constancy shone out as brightly in the gloom as did his daring, and, though it was the irony of fate that his first battle should be his last (and that battle, like "New Market," a combat rather than a pitched fight), he fought his Division in the disastrous affair at "Sailor's Creek" with such skill and audacity as drew from Ewell (dear "Old Dick," hero of a hundred fights!), in his official report, most emphatic and enthusiastic commendation.

There on April 6th, 1865, just three days before "the Surrender" at Appomatox, C. H., Ewell's force of 3,000 was literally surrounded by about 30,000 of the enemy's infantry and cavalry and, after a stubborn resistance, in which the garrison-troops behaved with great steadiness, was forced to surrender—Ewell, Custis Lee and four other general officers being among the prisoners.

This ended the military career of the young soldier, who, we must allow, had tasted but bitterly of the meagre "chance" given by fate or fortune or call it what you will. Of his civil life, it is needless to speak save in briefest fashion. In the autumn of 1865, he was made "Professor of Civil and Military Engineer-

ing and Applied Mathematics'' in the Virginia Military Institute. Here, possessed of notable powers of lucid exposition, he taught successfully for five years, resigning his chair at the beginning of 1871 to accept the Presidency of Washington and Lee University, to which he had been elected on the death of his father in October, 1870. This high position he held for over a quarter of a century, evidencing executive ability of the first order, and when, in 1897, owing to ill health, he resigned the headship of that institution, he carried with him into retirement the profound respect and deep affection of the whole academic body, professors and students alike.

He was, by reason of his training, a strict disciplinarian, yet was this strictness so tempered by tact and kindly sympathy that he became the idol of the students, who constantly carried to him their little troubles and perplexities, assured beforehand of ready understanding and wise counsel.

Removing to beautiful ''Ravensworth,'' the old Fitzhugh estate in Fairfax County, where lived the widow and sons of his brother, General W. H. F. Lee, he spent the remaining years of his life in scholarly seclusion, and it was there that he gently fell asleep on the 18th day of February, 1913.

It may be added here that, during the long years when he had a house of his own at Lexington, and, indeed, afterwards at ''Ravensworth,'' he was the ideal host, full of delicate, unobtrusive previsions for the comfort and entertainment of his guests, charming them all, despite his habitual reserve when not under his own roof-tree, by his gracious manners, his quiet humor, and the modesty of his genial talk, which ranged over a wide field of intellectual interest, and evidenced a literary taste and critical perception most unusual in one, whose life had been so persistently devoted to scientific pursuits.

Though it is not unlikely that the recollection of the untoward stroke of fate, that, in his younger days, had shattered his dream of military distinction, never faded from his mind, casting in no mean measure a shadow over his whole life, such was the inimitable sweetness of his disposition that he never became embittered, nor could the snows of eighty winters ever chill the generous impulses of a noble heart. As Sheridan said of Warren Has-

tings, "his noble equanimity, tried by both extremes of fortune, was never disturbed by either," and, in contemplating the sacrifices imposed upon him by duty and patriotism, which he accepted with the unquestioning "humility of a high spirit," surely we may say with Lear,

Upon such sacrifices
The gods themselves throw incense.

We have dwelt thus long upon his career because we hold it a part of the business of this Society to perpetuate, so far as may be allowed us, the names and virtues of its members as they pass away, and because we hold Custis Lee justly entitled to take high place beside the best and noblest of our "Virginia Worthies."

Owing to his inbred shrinking from publicity of every kind and to his almost inpenetrable reserve, which not even the most persistent "interviewer" ever pierced, these few poor remarks will probably constitute the sole memorial of him, though, of course, his name will live, in some measure, in the memoirs of his contemporaries, and especially in the intimate domestic letters of his father, in many of which, still unpublished, his name (as some few of us know, who have had the privilege of reading them) finds constant mention.

As we salute him with this halting "*Ave atque vale*," we are sustained by the abiding remembrance that from "the prime of youth" to "the frosty, yet kindly, winter of his age," he kept inviolate the chastity of a pure and stainless life, and that, with "soft invincibility," he remained to the very end "the Master of his fate, the Captain of his soul."

History of the Mormon Church

By Brigham H. Roberts, Assistant Historian of the Church

CHAPTER CVIII

Death's—Apostasies—"The New Movement"—Utah Mission of the "Reorganized Church"—Prominent Visitors—Pratt-Newman Debate—Polygamy

THE several years immediately preceding the advent of the railroad into Utah, witnessed the passing of a number of prominent officers and members from the service of the church, some by death, and others by the more regretable circumstance of apostasy.

Of those who passed from the service by death were two noted women, Vilate Kimball, wife of Heber C. Kimball, and Leonora Taylor, wife of Elder John Taylor. Both these sisters had been leading spirits in the earlier days of the church, in Kirtland and Missouri; also in Nauvoo and in the pioneering days of Utah. Both were types of the early womanhood of the church: noble minded, high spirited, intelligent, courageous, independent, cheerful to spritliness at times, but profoundly religious, capable of great self-sacrifice under the sense of religious duty; all which is demonstrated in the lives of these two, and practically in the lives of all the "women of Mormondom." Never was greater mistake made than when it has been supposed that the women of the Church were weak, and ignorant, and spiritless. Such religious movements as that which the world knows as "Mormonism," involving as it has done self-sacrifice, patient, heroic service, through trying years—through whole life times, in fact—cannot be maintained on the woman-

hood side of it but by high spirited, virtuous women.[1] Such were the community of women of which these two were but types. Vilate Kimball was the type of American born women of the Church; the other, Leonora Taylor, the type of the foreign born.

Vilate Kimball died on the 22nd of October, 1867. She was the daughter and youngest child of Roswell and Susannah Murry,[2] born on the first of June, 1806, in Florida, Montgomery county, in the eastern part of New York State. She was married to Heber C. Kimball in her seventeenth year, and through the long, toilsome years that lie between that event and her death—including the trying days of Kirtland, Ohio, Far West, Missouri, Nauvoo, Winter quarters, and the settlement of Salt Lake Valley, is a record of patient endurance, of cheerful faithfulness, that gives its own proof of intelligent conception of duty, of a highly noble character sustained by holy faith and trust in God, that marks off this woman and those of which she is but a type, as objects of admiration—daughters of America of whom America may well be proud. At her death Brigham Young, who had known her through forty troubled, adventurous years, assured her family and friends "*that her life had been as honorable as any woman who had ever lived,*" and "if

1. Fortunately a volume has been written upon "The Women of Mormondom," by Mr. Edward Tullidge, which notwithstanding that author's predeliction to intense dramatic, rather than to the historical style of writing, is a valuable contribution to Mormon literature. The key note of the volume is the vindication of the really high character of Mormon womanhood by the consideration of their lives and labors, their suffering and service in the founding of the New Dispensation of the gospel of the Christ. The volume consists of over five hundred and fifty pages. It was published in 1877, New York. Following is the dashing preface, which reflects the spirit of the book.

"Long enough, O Women of America, have your Mormon sisters been blasphemed!

"From the day that they, in the name of the fear of the Lord their God, undertook to 'build up Zion,' they have been persecuted for righteousness sake: 'A people scattered and peeled from the beginning.'

"The record of their lives is now sent unto you, that you may have the opportunity to judge in the spirit of righteousness. So shall you be judged by Him whom they have honored, whose glory they have sought, and whose name they have magnified."

The Theology of the Book, especially of Chapters XVIII, XIX and XX, cannot be accepted as orthodox, nor representative of Mormon thought or dogma, but the historical facts of the volume, give the women of the Church of the Latter-day Saints the vindication they were entitled to before the world.

2. "The Murrys like the Kimballs, were of Scotch descent, and came to America during the 'Seven Years' War.' As a race they were gentle, kind hearted, intelligent and refined. Through many of them ran a vein of poetry. Vilate herself wrote tender and beautiful verses." Life of Heber C. Kimball, by O. F. Whitney, 1888, p. 25

any person had found fault with her, it was more than he knew.''[3] She was noted for great kindness of heart; for patience, justice, and mercy, in the patriarchal family of her husband, and was the friend and confidant of his other wives and their children. At the funeral service of this woman nearly all the prominent Church leaders and their families were present; and her grief- stricken husband made the melancholy prediction that he would not long survive her.

Leonora Taylor was the daughter of Captain George Cannon, grandfather of the Geo. Q. Cannon, frequently mentioned in these pages. She was born October 6th, 1796, at the town of Peel in the Isle of Man. From early youth she evinced a strongly religious nature, and in her actions sought divine guidance. It was the conviction received through prayer that ''it was the will of God'' that she should make the voyage to America, that led her, against the advice of many friends, to accept the position of companion to the wife of Mr. Mason, the private secretary of Lord Aylmer, Governor General of Canada. The residence of the Masons was at Toronto and here in his capacity of class leader in the Methodist Church she met John Taylor. His first proposal of marriage she rejected, but afterwards in a dream, seeing herself associated with him in his life-work, she became convinced that he would be her husband, and when a second time he proposed she accepted him. Leonora had enjoyed exceptional advantages in life. Her parents dying while she was quite young the old family estate at Peel was rented to strangers, but she became an inmate of Governor Smelt's family, residing in Castle Ruthen, Castletown, Isle of Man, where she frequently met with many distinguished people from England. She was refined both by nature and education, gentle and ladylike in manner, intelligent, gifted with rare conversational powers and withal beautiful in person as in mind. These graces, however, were for her intimate acquaintances and friends. In mixed companies she had but little to say, unless drawn out, for she was of a retiring, and diffident disposition. She died of pneumonia on the 9th of December, 1868. ''Thus passed away from our midst,'' said the chronicle of her death, ''a virtuous, faith-

3 Life of Heber C. Kimball, by O. F. Whitney, p. 485.

ful wife, a kind and affectionate mother, a steadfast friend, and a faithful saint."[4]

Of woman, and of womanliness, what can be said more?

Neither Leonora Taylor nor Vilate Kimball were prominent in public life. The quiet social circle of intimate friends, and pre-eminently in the home circle, as confidants and counselors of their husbands; as the mothers of their children and the leading spirits of their households were they distinguished; these were the spheres of their activities, the scenes of their triumphs; and therefore are they the more typical of Mormon womanhood, in general, than their sisters, who of necessity,—and worthily and honorably,—have engaged in public service, through the women's auxiliary organizations of the Church; for primarily and largely, though not exclusively, the social and domestic circles are recognized in the Church as the natural spheres of woman's chief activities.

Of the prominent men passing in this period the first was Heber C. Kimball, first counselor to Brigham Young in the First Presidency. He died on the 22nd of June, 1868—eight months to the day from the death of his wife, Vilate. His death was superinduced by a severe fall from his carriage, which accidentally in the night was driven into a ditch, violently throwing its occupant to the ground. "This accident, though he partly recovered from its effects," says his biographer, "was the immediate forerunner of his fatal sickness." He has already been frequently mentioned in these pages, and appears as the personal friend of Joseph Smith the Prophet, and of Brigham Young; also as counselor and associate pioneer with Brigham Young in the journey from Nauvoo to the Salt Lake valley; and as the first apostle to open the door of the gospel in a foreign land in the New Dispensation—the founder of the British Mission. It was a great work he accomplished in life, a noble life that he led. He was as stalwart in spirit as in body, a faithful, earnest, disciple of the New Dispensation, of the kind of disciple whose intensity of faith and zeal are so necessary, especially in the commencement of great movements, in the founding of new systems, or the

4. *Deseret News* of Dec. 14, 1898, also Life of John Taylor, Chapter III, *et passim*.

bringing forth of new dispensations out of the old and eternal things.

Following the death of Heber C. Kimball came that of a man no less remarkable, Daniel Spencer, the first president of the Salt Lake Stake of Zion, his presidency running through the years from 1849 to the day of his death which occurred on the 8th of December, 1869. The continuance in that presidency was interrupted by a mission to England from 1852 to 1856, during which time he acted as counselor in the European Mission; but he resumed his office in the Salt Lake Stake on returning to Utah. Of him I have already spoken in these pages in connection with the early judiciary history of the State of Deseret and the Territory of Utah; and how his ecclesiastical court, the high council of the Salt Lake Stake of Zion, was sometimes preferred by passing California emigrants to the civil courts; and of the substantial justice that characterized his decisions. He was a man of a high sense of honor, as irreproachable in character as in conduct. Daniel Spencer was of Revolutionary ancestry. His father enlisted early in the struggle for American freedom and continued in the service to the close, being among those in Washington's body guard who witnessed the surrender of Lord Cornwallis at Yorktown.[5] In education, in refinement of nature and conduct, in character, and in service achievement, the Spencers were a family of which any movement, political or religious, might well be proud; and in that family Daniel Spencer was a princely representative.

On the 3d of September, 1869, Ezra T. Benson, one of the quorum of the Twelve Apostles since the summer of 1846, died very suddenly of something like heart failure.[6] He, too, came of a Massachusett family. His labors from the days of Nauvoo until the time of his death identified him with the general incidents that mark off the pioneering period of the Church, his last

5. See chapter LXXIX this History *Americana* for Jan., 1913. Also Biographical sketch of Daniel Spencer in Jensen's L. D. S. Biographical Encyclopedia, Vol. 1, pp. 286-9; and in Whitney's Hist. of Utah, Vol. IV, pp. 87-90. President Young said of him at the funeral services—"He has been faithful in this holy war [having reference to Elder Spencer's labors in the New Dispensation]. He instructed all with whom he met in the way of life. He never gave counsel, but what marked the way to life everlasting." *Deseret News* of Dec. 16, 1868, p. 353.

6. See account of in *Deseret News*, Weekly of Sept. 8th, 1869.

great work being the fulfillment of the contract for constructing the Central Pacific Railroad grade from Humbolt Wells, Nevada, to the Junction of that road with the Union Pacific, a contract he executed in partnership with Lorin Farr and Chauncy W. West. This man also was an earnest, faithful disciple, though his zeal found expression in physical pioneering activities rather than in works of scholarship and doctrinal exposition. It is to be observed that in the obituary notices and the remarks at the obsequies of these pioneers in the New Dispensation, notice is taken of the fact that inroads were rapidly being made on the band of men and women who knew and were associated with the Prophet Joseph Smith, in the early days of the Church. Inroads which by now (1914) have removed nearly every man and woman who ever saw the Prophet, much more those who worked with him in the New Dispensation; the latter have all departed; the remaining few of the former class will also soon have passed away.

Those who were lost to the Church in this period through apostasy were a coterie of rather able, and some of them brilliant men; W. S. Godbe, E. L. T. Harrison, Eli B. Kelsey, Henry W. Lawrence, Edward W. Tullidge, T. H. B. Stenhouse, W. H. Sherman. All these men were prominent in the community life of Utah. Messrs. Godbe and Lawrence were prosperous merchants of Salt Lake City, and both active in Church service, Godbe as a President in the council of one of the quorum of seventy, a body of the priesthood, it will be remembered, devoted especially to the propaganda activities of the Church; Mr. Lawrence was a bishop's counselor, *Messrs.* Harrison, Kelsey, Stenhouse and Tullidge were all members of the Seventy's organization, and were men of more than average literary ability. Also they were men against whom no charge of irregularity of life or immorality was made. It was, so far as their trial and excommunication was concerned, purely a matter of being recalcitrant to the authority and policy of the Church. Really and truly, so far as the prime movers were concerned, *Messrs.* Godbe and Harrison—and some of the others—it was a matter of having lost faith in the mission and authority of the Church, despite all pretensions to the contrary, that led to their recalcitrance and

its consequences. There are two historians of this "Godbeite Movement"—if "movement" it may be called—Edward W. Tullidge and T. H. B. Stenhouse. According to the latter, who is the more reliable in accuracy of statement, the "movement," had its origin in the following facts:

In the summer of 1868 Mr. Godbe in his capacity of merchant made his annual visit to the east to purchase his supply of merchandise accompanied by his friend Mr. E. L. T. Harrison. The latter was an architect by profession, but had been engaged for some time in a literary venture in partnership with Mr. Tullidge, publishing the *Utah Magazine,* which venture, owing to the very limited community in which it was published, was fast hastening to a disastrous ending; and the visit to the east, on the part of Mr. Harrison, was in the nature of a vacation from the care and worry of publishing the magazine. En route for the east the two friends had time for reflection and the opportunity to compare their conclusions. "Both of them had struggled to preserve their faith in Mormonism," says Stenhouse, "but the contents of the Book of Mormon, critically viewed, was a terrible test of credulity, and many of the revelations of 'The Lord' savored too much of Joseph Smith, and abounded with contradictions, and were very human at that. As for Brigham, '*he was a hopeless case;* many of his measures were utterly devoid of even commercial sense, and far less were they clothed with divine wisdom. In all his ways, he [Brigham] was destitute of the magnanimity of a great soul, and was intensely selfish.' To their developed intellects now, Mormonism seemed a crude jargon of sense and nonsense, honesty and fraud, devotion and cant, hopeless poverty to the many, overflowing wealth to the favoured few—a religion as unlike their conceptions of the teachings of Christ, as darkness is to light."[7]

This statement of facts Mr. Tullidge carefully omits where he quotes Mr. Stenhouse's account of the inception of the "Movement," and he nowhere states it in his own idealized account of the "movement."[8] It is a very serious omission because the

7. Rocky Mountain Saints, p. 630.

8. "The Godbeite Movement," Tullidge's Quarterly Magazine, Oct., 1880, pp. 15, 16, *et seq.*

mental attitude of these two leaders in the inception of their work determines the quality of the whole movement. They were far advanced in apostasy from the faith when making this eastward journey. Mr. Stenhouse represents that they were conscious of this condition: "They discovered, clearly enough," he writes, "that they were—in the language of the orthodox—'on the road to apostasy,' yet in their feelings they did not want to leave Mormonism, or Utah." There followed a great mental struggle, which on arriving in New York, and being comfortably located in their hotel, they resolved to seek a solution to their perplexity in prayer. While praying "a voice spoke to them, and made some communication upon the subject which most interested them." After this first experience Mr. Harrison formulated a series of question," and in the evening by appointment "a band of spirits came to them, and held converse with them as friends would speak with friends. One by one the questions prepared by Mr. Harrison were read, and Mr. Godbe and Mr. Harrison, with pencil and paper took down the answers as they heard them given by the spirits." "This is their statement," says Stenhouse, "and they firmly believe it"[9]—the account was published while the gentlemen were still living.

"With these 'communications' was given much information about Mormonism, how it originated, and how Joseph Smith had, by reason of his surroundings, his lack of education, the traditions of past ages, and the current ideas of Christendom, turned his 'mediumistic' experience into the church-kingdom-building scheme that is known in Utah. What was true about Mormonism, they were told, should be preserved, and what was false should be rejected."[10]

With this known, as the revised conception of Mormonism by these gentlemen, the student of this "movement" will be able to rightly assess the value of such claims as they subsequently made about "their standing in the Church *being dear to them;*"[11]

9 Rocky Mountain Saints, p. 632.

10 *Ibid* 232.

11 "We claim the right of respectfully but freely discussing all measures upon which we are called to act," said the written and signed statement of Godbe and Harrison at the trail for their fellowship. "And if we are cut off from the Church for asserting this right, *while our standing is still dear to us*, we will suffer it to be taken from us sooner than resign the liberties of thought, etc., etc. ("The Godbeite Movement" Tullidge's Quarterly Magazine for October, 1880, p. 25).

and also of Mr. Godbe's signed statement, wherein he says: "With regard to apostacy,"—with which he was charged, he said: "*I know myself to be wholly innocent;* the truth of which, God in the early future will make fully apparent."[12] Also the student in the light of these facts will be able rightly to estimate the value of Mr. Tullidge's statement that the "Godbeite movement was a revival of the Messianic and Millenial spirit among the Mormon people, who were chosen to open the dispensation forty years before, but who had come so very nearly losing it altogether."[13]

Returning to Utah the New York experiences of Messrs. Godbe and Harrison were detailed to their particular friends Kelsey, Lawrence, Tullidge *et al.* "Believing that Brigham" continues Stenhouse's account of the movement at this point, "had set out to build up a dynasty of his own, and that he like David, the king, looked upon the people as his heritage, these four Elders (Godbe, Harrison, Kelsey and Tullidge) resolved to sap the foundations of his throne, and place before the people the best intelligence they could command to enable them to realize their true position."[14] This intention in confidence they conveyed to Henry W. Lawrence, who "gave valuable material support" to the movement. The *Utah Magazine* which before this was fast hastening to an inglorious close, was given a new lease of life and pressed into service. The plan was to have articles appear in this magazine from time to time which in an insidious way would indirectly attack the policies of President Young, in the hope that a popular sentiment might be created against, and overthrow them, and with them destroyed the dominating influence of the President himself.[15] While this scheme was develop-

12. Ibid, p. 40.
13. Ibid, p. 16.
14. Rocky Mountain Saints, p. 632.
15. "Not a word was ever said against Brigham or the faith; no fault was found with any one or anything, but week after week the whole strength of four vigorous pens was let loose upon the ignorance and superstitions of the age. Brigham had instilled into the minds of the Saints that the world was degenerating to an end, propelled by lightning speed; Kelsey, without ever squinting at the Prophet, wrote the history of the past, and showed 'How the World had Grown'; Tullidge resuscitated the 'Great Characters of the World,' and without once alluding to Brother Brigham, dwelt upon a philosophical faith; and Godbe exhibited the possibility of honest error. With such minds at work, and with such a field for labour, and innumerable subjects to handle, the writers had only to study caution and prudence. * * * Some very pungent articles had been published in the

ing several of those engaged in it were called upon missions, namely, Mr. Harrison, to England; Mr. Kelsey, to the Eastern states; and Mr. Sherman elsewhere.[16] This doubtless in the hope that renewal of the missionary spirit would stay the spirit of apostasy which began to be manifested in the writings of these brethren in the *Utah Magazine;* but the missions were declined.

The opposition of this coterie touched the policies of President Young and of the Church at several points. The approaching railroad would bring goods from the east at greatly reduced prices as compared with goods manufactured in Utah. If the home manufacturers were to be maintained, then the cost of production must be lowered, both by improved methods of production,[17] and especially at the point of wages. Accordingly, at the School of the Prophets, held in Salt Lake City on the 4th of July, 1869, a committee-man from each of the trades was elected to submit to the trades, the proposition of reducing the wages of mechanics, that Utah might be able to compete with the manufactures of the states."[18] This effort to lower wages was

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Magazine, that had awakened attention, and in some measure they had foreshadowed a purpose on the part of the writers to judge of the teachings and measures of Brigham Young as they would those of any other man; but of the true nature of the 'movement' they were inaugurating, nothing had been fairly stated. The writers at first only aimed to provoke the people to thinking." (Rocky Mountain Saints, pp. 633, 637).

16. Tullidge Quarterly Magazine, October, 1880.

17. On this particular point the Deseret News editorially made the following sensible remarks in the nature of a warning to home manufacturers: "By the completion of the railroad we are going to be brought into competition with our neighbors east and west in all branches of production and manufacture. In view of this our mechanics must arrange matters in such a manner that they can command the trade of the Territory. If their methods of labor and manufacturing are slow and expensive, they must avail themselves of machinery, and the various aids which men in their branches of business use in the east and west; for if they do not produce as good an article at as low a price, as it can be brought here from other places, they will be likely to find the market stocked from abroad and their wares will go begging. We have men among us, though they are not numerous, who, if they can make twenty-five cents by bringing an article from abroad do not hesitate to send for it in preference to purchasing a home manufactured article of the same quality. To control this market, therefore, those who manufacture and produce, must do so at rates so favorable that nothing in their line produced or manufactured elsewhere can find sale here except at a loss. The tariff on freight brought from the east or west answers as good a purpose as a protective duty, and we will be highly culpable if we do not take the necessary steps to supply ourselves from our own productions and manufactures to the extent of our power." (Deseret News of March 3rd, 1869.)

18. Hist. of Brigham Young *Ms.* entry of July 4th, 1869, p. 508. The subject is referred to in the brief minutes of the school in the same record at p. 638, where reference is made to the report of the committee appointed being read: Again at p. 823. The "School of the Prophets" was a select gathering of the brethren of the priesthood, meeting regularly through these years to be taught in

seized upon by the Godbeite writers in which they posed as the champions of the wage earners, and resented what they alleged to be an attempt "to fix the rates of wages" by the "men who paid the wages and not the men who received the wages,"[19] ignoring altogether the fact, quoted above, that it was a committee composed of one member from each of the trades to which the subject was referred by the School of the Prophets for consideration.[20]

Although the *Utah Magazine* had for some time "vigorously and enthusiastically sustained the cooperative movement," during the absence of Harrison and Godbe in the east, yet its support was soon withdrawn from this as from the other policies of the Church.[21] Henry W. Lawrence, who was early informed in

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the doctrine of the gospel and in the policies of the Church. Admission was by card and the sessions confidential. Here questions of practical affairs as well as of theological importance were freely discussed and instruction and council given according to the wisdom of the assembly or the presidents thereof. Hence the action named in the text above with reference to the question of wages and trade and manufactures.

19. Tullidge's Quarterly Magazine, Oct. 1880, p. 18.

20. After several sessions devoted to the subject, including discussion of the resolution submitted by the committee to the School, it seems to have been determined not to attempt to settle the rate of wages by convention, but to leave it to the adjustment of natural trade forces. See the citations in note 16 this chapter; also Tullidge's *Quarterly Magazine* as above, pp. 18-22. Tullidge's charges that George Q. Cannon, then Editor of the Deseret News threatened that Chinese labor would be brought into Utah if the "working men did not come to terms." Mr. Cannon in several editorials discussed the question of Chinese labor in California, and rather in a tone that sympathized with the Orientals; but at no point did the editorials amount to a threat to Utah workmen. I presume the passage Tullidge had in mind would be the following: "There is probably no people on the continent who are likely to be less disturbed or affected by the introductoin or non-introduction of this element than the people of Utah. If the people act with the union and wisdom which have heretofore characterized their movements, they are and will be safe from all disturbance. There is no class, American, European or Asiatic, the influx of which can harm them. If they act wisely, and in accordance with the counsel which is given, they can sustain themselves and be as independent as any community in the world. It is the union of the people which has produced the remarkable results that are everywhere apparent in this Territory, and that concert of action, carried out and maintained in all the details of labor, will give us continued supremacy. (*Deseret News* of July 14th, 1869). See also *News* Editorials of May 26th and June 30th, same year.

21. See Tullidge's Hist. of Salt Lake City, p. 401. The *Utah Magazine* was a weekly periodical, the literary successor of the "Peep O. Day," the latter being an experiment by Harrison and Tullidge to make literature a profession in Utah; but meeting with insuperable difficulties,—among which were a limited community from which to draw subscribers; and paper at sixty cents per lb., and some times not to be had at that price—it failed. Then came the *Utah Magazine* in January, 1868, started for the same purpose; it was to be a magazine of general literature, with Wm. S. Godbe as its patron, Eli B. Kelsey as business Manager, E. L. T. Harrison as Editor. It was started with the approval of President Young, though he expressed himself doubtful of its success as a financial venture. The *Deseret News* on receiving the first number said that it was an enterprise worthy of commenda-

confidence, of this "New Movement;" and gave to his friend Godbe valuable material support, and became an important factor in the plans of the movement. He resigned as a director and withdrew his capital ($30,000) from Z. C. M. I.[22] It was planned for one of the writers of the magazine—Mr. Tullidge—to resuscitate the "Great Characters" of the world; "and without once alluding to Brother Brigham, the contrast was to be to his disadvantage." In like surreptitious manner the doctrine of obedience to the church as taught by Brigham Young was assailed; Harrison dwelt upon what he and his conferrers regarded as a philosophical faith, but which neither in premises nor conclusions was 'Mormonism'; "and Godbe exhibited the possibility of honest error."[23] Finally the Magazine, in an arti-

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tion and support;" and further of its character—"The *Utah Magazine*, in its first number, presents a very attractive appearance, more so than could have been expected considering the difficulties the editor had to encounter in procuring type, etc. The articles—original and selected—are excellent; and the paper may claim to be a valuable addition to the literature of our Territory." (Deseret News—Weekly—Jan. 22nd, 1869). When the Utah magazine was enlarged and assured of prolonged life the *News* not knowing, of course, the secret intention of its proprietors to make it a periodical with a mission, and that mission anti-Mormon in spirit, but still regarding it as an honest effort in the direction of general literature—again made favorable mention of it in its new and enlarged form (See *Deseret News* of May 5th,—Weekly—1869). The magazine in all ran through two series and three volumes, when it was succeeded by the *"Mormon Tribune."*

22. "At the every time when this organization was formed (i. e. Z. C. M. I., which began its career 1st of March, 1869), the 'New Movement' had already been resolved upon; so that though Henry W. Lawrence put $30,000 into the Z. C. M. I.," and became one of its directors, he was, to so express the historical complexity, a 'New Movement leader.' So writes Tullidge; and as if in apology for this "historical complexity," he adds: "The force of circumstances in those times compelled us all to wait for the development of events which depended upon the action of President Young himself." (See Tullidge's Quarterly Magazine, Oct., 1880, p. 17; also p. 42. Tullidge's Hist. of S. L. City, p. 401). And hence we have both men and a magazine posing in one capacity and acting another; all which will make it very difficult for Mr. Tullidge, one of the historians of the movement, to maintain his proposition that there was "no conspiracy in the dark against Brigham Young;" but a "social revolution was forced upon these 'Reformers,' 'by coming events.'" Tullidge's Quarterly Magazine, p. 18.

23. The Godbeite Movement, *Tullidge's Quarterly Magazine*, Oct., 1880, pp. 15, 16. Godbe's "possibility of honest error," became a catch phrase during and after the trial of these men for their fellowship. "We enquired" says Harrison in a note on the trial, published by Tullidge, "Whether it was not possible for us to honestly differ from the presiding, priesthood, and were answered that such a thing was impossible. 'We might as well ask whether we could honestly differ from the Almighty.' Against this excess of authority we solemnly protested." (*Ibid*, p. 32). This answer to the dissenters was alleged to have been made by Geo. Q. Cannon; it is therefore proper that his version of that matter be given. "A friend . . . wished to know whether we had said that we considered an honest difference of opinion between a member of the Church and the authorities of the Church was apostasy, as he said, we had been credited with having made a statement to this effect. We replied that we had not stated that an honest difference of opinion between a member of the Church and the authorities constituted apostasy;

cle on the "True Development of the Territory," came out in bold opposition to President Young's policy of mining for the precious metals in Utah; the policy that discouraged development of such mines, lest it should attract to the Territory the floating, adventurous, half desperate, and somewhat lawless population of the west, then roaming from mining camp to mining camp in pursuit of large and sudden wealth. It mattered not that the argument advanced by the Magazine was economically sound, *viz.* that Utah's greatest natural resource, in which she could best compete with other states in the race of material progress, was by the development of her stores of mineral wealth. The question from Brigham Young's standpoint and the other Church leaders associated with him, was not one of material prosperity, but one of community preservation—the preservation of the Latter-day Saints as the dominating factor in the Territory until they should be so established as a people that they could not be removed, or overslaughed by the influx of a population of different ideals, and asperations—a population, in this instance, whose God was gold, not Jehovah; whose aim was large and sudden wealth—not the founding of a city or of a commonwealth whose builder and maker is God. The aim—one may say the life-aim—of Brigham Young was to see the Latter-day Saints become a great and a mighty people in the midst of the Rocky Mountains—in other words, to fulfill the prediction of Joseph Smith on that head. Clearly it was not for these men—self-styled and self-appointed reformers—to undertake to change a policy deemed so vital to the community's interest on their own initiative, so long as they professed allegiance to the Church.

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for we could conceive of a man honestly differing in opinion from the authorities of the Church and yet not be an apostate; but we could not conceive of a man publishing those differences of opinion, and seeking by arguments, sophistry and special pleading to enforce them upon the people to produce division and strife, and to place the acts and counsels of the authorities of the Church, if possible, in a wrong term. We further said that while a man might honestly differ in opinion from the authorities through a want of understanding, he had to be exceedingly careful how he acted in relation to such differences, or the adversary would take advantage of light, and not be an apostate; for such conduct was apostasy as we understood the him and he would soon become imbued with the spirit of apostasy, and be found fighting against God and the authority which He had placed here to govern His Church" (*Deseret News* Editorial,—Geo. Q. Cannon, Editor—impression of Nov. 3rd, 1869).

It was evident by the publication of this article on the "True Development of the Territory,"[24] that the point of rupture between this group of malcontents and the Church had been reached. They were all members of the "School of the Prophets." Of late they had been neglectful in attendance upon its sessions; and on the 16th of October, 1869, the course they had been pursuing was considered and they were disfellowshipped from the Church until they appeared and gave satisfactory reasons for their irregular attendance upon the School.[25]

At the next session of the School of the Prophets not only irregularity of attendance upon the School's sessions but the whole attitude of these "reformers" as expressed in recent articles of the Utah magazine was discussed; and became of defiant adherence to the systematic opposition of the recent *Utah Magazine* articles, those who persisted in that adherence were required to give up their tickets of admission to the school,[26] while Godbe and Harrison were cited before the high council of the Salt Lake Stake of Zion for trial upon the charge of apostasy. Before the high council the fact of apostasy was too apparent to require long discussion. Indeed the proceedings scarcely took the form of an examination and trial. The men arraigned took occasion to read a series of resolutions which were both a protest to the administration of President Young, and an outline of a proposed reform program, what Tullidge characterizes as declaring "a rival mission" to that of Brigham Young, and concedes that there was nothing "for the high council to do but to *excommunicate these men of a rival mission.*"[27] The high council voted for their excommunication, and because Eli B. Kelsey voted against

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24. The publication of this article gave very great satisfaction to the Gentile population of course. Any thing that gave evidence of a break in the unity of the Saints was applauded by them. "You boys have struck the blow in the right place." observed Mr. J. R. Walker. "The agitation for the opening of the mines was the 'right place' for Utah's social redemption," continues Mr. Tullidge's account, "therefore had we struck there first before proclaiming any spiritual or religious movement." "The Godbeite Movement," Tullidge's Quarterly Magazine, Oct. 1880, p. 28.

25. *Ibid*, p. 28, where the formal notification of the action from the secretary will be found.

26. Those who surrendered their tickets were William S. Godbe, Elias L. T. Harrison, Henry W. Lawrence, Fred T. Perris, Edward W. Tullidge and John Tullidge. Hist. "Godbeite Movement," Tullidge's Quarterly Magazine, p. 31.

27. Tullidge's Quarterly Magazine, Oct., 1880, p. 31, 32. The Protest of Godbe and Harrison also appears in the same Tullidge article, pp. 34, 35.

the high council's action, and because at every point he had shown himself in complete sympathy with these dissenters, his name was included with theirs in the excommunication. Very soon afterwards Henry W. Lawrence, T. H. B. Stenhouse, William H. Sherman, and Edward W. Tullidge, were added to the list of the excommunicated dissenters. In addition to this act of excommunication the *Utah Magazine* was condemned as "a periodical that in its spirit and teachings is opposed to the work of God. Instead of building up Zion, and uniting the people, its teaching would destroy Zion and divide the people; . . . therefore we say to our brethren and sisters in every place, the *Utah Magazine* is not a periodical suitable for circulation among or perusal by them, and should not be sustained by them."[28]

After this the opposition of the dissenters was more pronounced. Public meetings were regularly held on Sundays, and a rival church, with a ministry, and a re-stated faith, was to be promulgated. "A great and divine movement was at hand; the church would find its second birth and commence a new era in her career." The name of the New Church was to be styled "The Church of Zion;" the ordinances and principles were to remain "in tact as at present;" no priesthood or standing in the church would elevate the possessor, or obtain for him any distinction in the sight of God; all was to be very democratic, very just, very charitable, very saintly, and very easy. The burdens of tithing lightened and made to fall chiefly upon the rich; and the practice of plural marriage, not to be abandoned, was to be placed upon "the highest grounds." Who the head of the Church would be in this "New Era," *Messrs.* Godbe and Harrison claimed not to have the prerogative to say, further than to announce that God would "produce the proper man in due time;" and that he would be neither of them.[29] The proper man, however, did not appear; the "movement never materialized into an organization." In a short time the fires of enthusiasm for reform began to burn less fiercely, to smolder, and finally to

28. *Deseret News* of Nov. 3rd, 1869. The article was signed by Brigham Young, Geo. A. Smith, Daniel H. Wells, Orson Pratt, Wilford Woodruff, Geo. Q. Cannon, Joseph F. Smith.

29. All these ideas and announcements through "manifestors," "platforms," creedal declarations, etc., will be found in Mr. Tullidge's History of the Godbeite Movement in the *Quarterly Magazine* bearing his name, Oct., 1880.

die out. The "reformers" turned each to some secular pursuit, and the Church was permitted to pursue the even tenor of its way, unhampered by the unfriendly activities of this coterie of more or less brilliant men. The Godbeite movement reminds one of that class of reform movements which Victor Hugo describes as beginning "by attaching the Republic" and ending with "robbing a diligence,"[30] so anti-climax was it in character.

Soon after the inauguration of the "New Movement" it was joined by Amasa M. Lyman, formerly one of the Twelve apostles, although he did not figure very largely in it. Elder Lyman while on his mission in Europe with Charles C. Rich and Geo. Q. Cannon delivered a discourse in Dundee, Scotland, on the 16th of March, 1862, which virtually denied the necessity of, and the fact of, the atonement of Jesus Christ.[31] No satisfactory explanation appears why this matter was allowed to pass apparently unnoticed until the 21st of January, 1867. But it was not until then that Elder Lyman was brought before the council of the Twelve for his heresy. "The quorum of the Twelve" says the account of the meeting, "were horrified at the idea that one of the Twelve Apostles should teach such a doctrine." When interrogated upon the subject Elder Lyman avowed that such had been his views—that is, that men were not saved through any atonement made in the death of the Christ. Each of the quorum then spoke against the views of Elder Lyman. Elder Woodruff said "that he felt shocked at the idea that one of the twelve apostles should get so far into the dark as to deny the blood of Christ, and say that it was not necessary for the salvation of man and teach this as a true doctrine, while it was in opposition to all the doctrine taught by every Prophet and Apostle, and

30. "Ninety-Three" Sidney Library edition, p. 267.

31. In the aforesaid discourse, after affirming the innocence of the spirits of men in their pre-earth existence, Elder Lyman asked the question—"But was it decreed, then, that Jesus should die to save men who were thus pure and holy? No: it did not form any part of the purpose of God that he should die . . . 'Why' says one, 'I supposed that it was predetermined before the world was that Jesus must die, and that naught but his blood could bring God's children back to the home from whence they had simply gone abroad for a time.' Is it said so in the scriptures? No! . . . But did not this gospel have associated, as a necessary prerequisite for man's salvation the death of Jesus? No; for if so, he failed to tell the people the true nature of the gospel he preached, and his mission among men, and the means by which eternal life was to be gained." *Mill. Star*, Vol. XXIV, pp. 219 *et seq.*

Saint from the days of Adam until to-day. The Bible, Book of Mormon and Doctrine and Covenants teach, from beginning to end, that Christ shed his blood for the salvation of man, and that there is no other name given under heaven whereby man can be saved. And I can tell brother, Lyman, that his doctrine will send him to perdition if he continues in it, and so it will any man; and furthermore, such a doctrine would send this Church and Kingdom to pieces, like an earthquake. There never was and never will be, a Saint on the earth that believes in that doctrine, it is the worst heresy man can preach.''[32]

After the Twelve were through speaking Elder Lyman was very much humbled ''and asked forgiveness.'' The council repaired to President Young's office, where the matter was presented to him. The President sustained the views of the Twelve and emphasized them, ''and required Brother Lyman to publish his confession and make it as public as he had his false doctrine.''[33] To this he evidently consented for a most humble acknowledgement of his error was published in the *Deseret News!*[34] Unhappily, however, Elder Lyman did not adhere to his confession of error, but in a few months reaffirmed his conviction of the accuracy of the principle of his Dundee discourse against the necessity of, and the fact of, the atonement; and as a result of this course, after an investigation by three of the Apostles and a member of the first Presidency, Geo. A. Smith,[35] Elder Lyman was excommunicated from the church by actions of the Twelve Apostles in a council meeting at St. George, May 6th,

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32. Hist. of Brigham Young, *Ms.* 1867, pp. 59, 60.

33. *Ibid*, p. 60.

34. Impression of Jan. 30th, 1867. The opening paragraph is instructive and comprehensive: "I have sinned a grievous sin in teaching a doctrine which makes the death and the atonement of Jesus Christ of no force, thus sapping the foundation of the Christian religion. The above mentioned doctrine is found in a discourse which I preached on the 'Nature of the Mission of Jesus,' on the 16th of March, 1862, in Dundee, Scotland, and which was published in the *Millennial Star* No. 14, Volume 24. The above preaching was done without submitting it to, or seeking the counsel of, those who bear the Priesthood, with whom I am associated. In this I committed a great wrong, for which I must humbly crave and ask their forgiveness, as I do also of all the Saints who have heard my teaching on this subject. . . . (signed) A. M. Lyman. *Deseret News* of Jan. 30th, 1867). The church publications in Europe were asked to copy this confession.

35. The names of the three apostles making the investigation were John Taylor, Wilford Woodruff, Geo. Q. Cannon.

1867;[36] which action was ratified by the general conference of the Church on the 8th of October following.[37]

In the midst of this Godbeite movement Alexander H. Smith, and David Hyrum Smith, made their appearance in Salt Lake City as missionaries from the "Reorganized Church of the Latter-day Saints," the headquarters of which was at Plano, Illinois. Alexander was the third son of the Prophet, and David his posthumous son, having been born on the 18th of November following his father's martyrdom, 27th of June, 1844. They came to urge the claim of their brother, "Young Joseph," as the oldest son of the Prophet was then called, to the presidency of the Church, both on account of the place being his by heredity, and by reason of an alleged ordination to the office by his father previous to the martyrdom. The Smith brothers obtained an interview with President Young in his office, in the presence of a number of leading officers of the Church, among whom were a number of the uncles and cousins of these young men. The interview was not satisfactory on either side; from no human standpoint perhaps could it be expected that such an interview would result satisfactorily, in view of the conflicting claims and interests represented by the parties to it. The use of the Tabernacle for a public meeting that the two young men applied for was refused by President Young, and reference to past events at Nauvoo resulted in some unpleasantness of feeling.[38]

Several years before this, *viz.* in 1863, two missionaries from the "Reorganized Church" Edmund C. Briggs and Alexander McCord, visited Utah, and took up a proselyting work in which, it is claimed, they succeeded in bringing into their fold about three hundred members, half of whom according to Waite, left Utah for the eastern states in the following summer.[39] It

36. Hist. of Brigham Young *Ms.* 1867, pp. 502-4. The Apostles who acted at this time—their names appear signed to the minutes of the meeting—were: John Taylor, Wilford Woodruff, Geo. Q. Cannon, Erastus Snow, Orson Hyde, Ezra T. Benson, Lorenzo Snow, Orson Pratt, Sen., Charles C. Rich (Id).

37. See minutes of the conference for October, 1867, in *Deseret News*, of Oct. 9th, 1867. Elder Joseph F. Smith was sustained to fill the vacancy in the Twelve, created by the conference action in Lyman's case.

38. See Rocky Mountain Saints, pp. 628-9; Bancroft's Utah, pp. 644-46; True L. D. S. Herald, Vol. XVI, pp. 84-86, Alex. H. Smith's Letter describing the interview; *Ibid*, pp. 129-131. David Smith's account of the same.

39. Waite's "The Mormon Prophet," pp. 128-129. That the "emigration" eastward might not lack dramatic interest, Waite also states that "General Connor

scarcely seems likely that there was any connivance between the Godbeite Movement and the advent of this second Utah mission from the "Reorganized Church," and doubtless their appearance at that juncture falls under the head of what men call "mere coincidence." What was lacking in cordiality in President Young's reception of these messengers of a rival organization was of course granted by the dissatisfied elements in the Church of the Latter-day Saints, by apostates and by the Gentiles. Walker Brothers tendered the use of "Independence Hall," the Gentile forum for everything anti-Mormon; and here the young men began their mission. The people naturally had a curiosity to both see and hear the sons of the first Prophet of the New Dispensation, and crowded their first meetings. Elder Joseph F. Smith, recently received into the apostle's quorum, a cousin of Alexander and David Smith's, opposed their propaganda in a brief series of public discussions, in which he readily established the fact that Joseph Smith, the first Prophet of the New Dispensation, was responsible for the introduction of the new marriage system of the Church both in principle and practice; also he proved the legality of Brigham Young's succession to the Presidency under the principles of ecclesiastical government revealed to the Church.

The Godbeite party affected through its organ, the Utah *Magazine,* to act the part of an umpire in the controversy for a time, but were not prepared to accept the principle of hereditary advocated by the "reorganized church" representatives;[49] and as nearly all the leaders in that movement were practical

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deemed it necessary and advisable to send a strong escort with them as far as Green River, about 145 miles" (Id). Judge Waite opened his house for these "Elders" of the "Reorganized Church" to preach in whenever they wished. Letter from Edmund C. Briggs in the "True L. D. S. Herald," Vol. IV, pp. 89, 90. Bowles also says these converts "left Utah in 1864-5 under government protection, for fear of massacre by the instruments of Young." "Our New West," p. 268.

40. The Godbeite leaders charged that Brigham Young was himself planning to establish a dynasty of his own house, to hold the presiding officers in the Church, and Stenhouse declares that the Godbeites seized upon the contention of the Smith brothers on the subject of heredity, to "tell Brigham Young what the people felt respecting his dynasty project;" and quotes the following from a Utah Magazine editorial: "If we know the true feeling of our brethren, it is that they never intend Joseph Smith's nor any other man's son to preside over them, simply because of their sonship. The principle of heirship has cursed the world for ages, and with our brethren we expect to fight it till, with every other relic of tyranny, it is trodden under foot." (Rocky Mountain Saints), p. 635.

polygamists, and declared their intention to maintain that principle,[41] they could not accept the viewpoint of the Smith brothers upon that subject; and hence there was no ground upon which the two factions could form any practical alliance; and the "reorganized" agents were soon dropped by the Godbeites.

The effect of the whole movement of the "reorganization" under the Smith brothers, upon the Church of the Latter-day Saints in Utah, from first to last in anti-Mormon literature is given an unwarranted importance, as well in the first as in this second mission to Utah. To represent, as Bancroft does, that "at first the followers of Brigham trembled for the supremacy of their leader,"[42] referring to the mission of the Smith brothers in Utah, is ridiculous; there never was any such trembling by anybody, anywhere. Though given encouragement by the Gentiles of Salt Lake City, by the Godbeites, by the U. S. Officials of Utah, by the Colfax party, who happened to be passing through Utah on their second visit, when the Smith brothers were making their utmost efforts at propaganda[43]—yet not all these circumstances could render their mission formidable. The utter lack of substance in the things for which they contended, coupled with "hopelessly mediocre ability"[44] in the propagandists, doomed their mission from the first to abject failure in Utah.

One expectation with reference to the completion of the transcontinental railroad began early to be realized—the influx of prominent visitors to Salt Lake City and the Territory. In mid June, 1869, came Hon. Benjamin F. Wade, late President of the U. S. Senate, and author of the "Wade Bill" considered in a previous chapter. He was accompanied by his wife. At the same

41. "The Godbeite Movement," Tullidges Quarterly Magazine, Oct., 1880, p. 51
42. Bancroft's Hist. of Utah, pp. 645-6.
43. Mr. Colfax resents somewhat bitterly—while overstating both the nature and the volume of opposition made to the Smith brothers in Utah—the refusal of President Young to open the Tabernacle and the Mormon meeting houses to the propagandists of the reorganized church. See "The Mormon Question" a discussion between Vice-President Schuyler Coxfax and Elder John Taylor—Deseret News print—1870—p. 14. Elder Taylor's answer to this resentment was: "We do invite men of almost all persuasions to preach to us in our tabernacles, but we are not so latitudinarian in our principles as to furnish meeting houses for all; we never considered this a part of the programme." (Id. p. 23).
44. "They were men almost without force of character, of lamb-like placidity, and of hopelessly mediocre ability; not shrewd enough to contend with their opponents, and not violent enough to arouse the populace. They accomplished little for the reorganized church (Bancroft's Hist. of Utah, p. 646).

time came Gen. Philip H. Sheridan and several officers of his staff, Generals Boynton, Hopkins and Rucker; U. S. Senator Roscoe Conklin of New York, Mr. Julian of Indiana, a member of the House Committee on Territories, and later the author of a bill of one section granting the elective franchise to the women of Utah; Governor Campbell of Wyoming and others.[45] Later in

45 *Deseret News* of 15th and 16th of June, 1869. Besides those mentioned in the text other prominent visitors to Salt Lake City during the first six months after the completion of the railroad, were—J. E. Caldwell Heyer, Editor of the Chicago *Journal of Commerce;* the Congressional Committee of Ways and Means, en route for the Pacific coast, headed by the chairman Hon. Samuel Hooper of Massachusetts, visited the City, and were serenaded at their hotel. Hon. W. D. Kelley of Penn. thanked the citizens in behalf of the committee. On the same day arrived Miss Anna Dickinson, a lecturer on Woman's Rights, Education, etc. She was accompanied by her brother, Rev. J. Dickinson. The noted lady lecturer remained long enough—from the 19th to the 23rd of June— to gather *data* for an Anti-Mormon lecture which she afterwards delivered it is said, with great *eclat.* On the 20th of the same month—Sunday—Rev. Dr. Todd, of Pittsfield, Mass., a congregational Minister, and author of *"The Serpent in the Doves Nest"* (a sex theme) and other books, occupied the Tabernacle pulpit. Baron Gauldree Boilleau, formerly French consul at New York, now Envoy Extraordinary and Minister Plenipotentiary from the Court of France to Perue. A large Eastern party of railroad magnates and their wives accompanied by a number of newspaper writers and editors, among them Horace White, Editor of the Chicago *Tribune,* arrived on the 26th of June. "Ned Buntline," otherwise Col. E. Z. C. Judson, writer and lecturer. He remained some time in the city, wrote poetry about it (see poem in *Deseret News* of July 7th), and finally lectured on a local subject—"The Industrial and Social Importance of Total Abstinence from the use of Intoxicating Drinks as Exemplified by the People Here"—Salt Lake City. Crosby S. Noyer and S. H. Kaufman, Editors of the Washington Evening Star; the Wisconsin party, of twenty-seven, state officials, legislators, bankers and Editors, chiefly. In August came Dr. G. L. Miller, editor of the Omaha *Herald,* who ever after was the steadfast friend of Utah and the Mormon people. An Excursion party of seven led by Rev. E. D. G. Prime, Editor of the N. Y. *Observer,* on a tour round the world, stopped over in Salt Lake City. On the 21st of August came the "Congressional Committee on Retrenchment," with a number of invited guests. On the Committee from the U. S. Senate were Hon. James W. Potter of New Hampshire; Hon. Carl Schurz, of Mo ; Hon. Allen G. Thurman, of Ohio; from the House of Representatives, three members; Senator J. S. Morrill, of Vermont was also of the party. They attended service at the Tabernacle on Sunday, and visited President Young at his office the following day. On the last day of the month another senatorial party arrived Hon. Richards Yates, U. S. Senator from Illinois; Hans W. Pitt Kellogg, and J. S. Harris, U. S. Senators from Louisiana; also with the same party Col. Cask E. Carr, and Judge J. G. Wilson, both of Illinois. A few days later came U. S. Senator T. W. Lipton and wife of Nebraska. Early in September the "Quincy Excursion Party" arrived, among whom were many who had friends and relatives in Salt Lake City; also Ex-Lieut. Governor of Illinois, John Wood—1856-60—who was mayor of the City of Quincy at the time the Latter-day Saints were driven *en mass* from Missouri, and were kindly received by the Mayor and citizens of Quincy, at which point the Saints were entering Illinois. Throughout all their troubles up to their evacuation of Nauvoo and even afterwards, the Saints found a consistent and strong friend in Ex-Lieutenant Governor, John Wood (*Deseret News,* of Sept. 8th, 1869). The Eccentric Geo. Francis train visited Salt Lake City in September, and delivered several characteristic lectures in the Theatre. He described the Mormon religion as the only one "ever established where the founder thereof had a father and mother." A party arrived on the 29th of September en route for the orient which included Mr. Rangabe, the acting Greek Minister, M.

the month of June came Hon. W. H. Seward, late Secretary of State during both the Lincoln and Johnson administrations. His party was heartily greeted by a committee from the city council —the mayor being absent—and driven in carriages to the principal points of interest in the city and its suburbs. There were band serenades in front of the hotel at which the party was stopping—the Townsend House—and loud calls from the citizens who had assembled for speeches. Mr. Seward responded by brief remarks, but thought the circumstances under which he was traveling forbade him discussing public or political affairs." "They do not forbid me, however," said the Ex-Secretary of State, "acknowledging the hospitality and kindness which have been shown me by my fellow citizens. That is all I can do, and I do it with a free, kind, and good heart. I thank you for the hospitality you have shown me since I came to your city. I thank you for your attendance to-night, and I pray God that the great marvel which I witness here may result in establishing a good civilization in the heart of the American continent; and be a sign, token, and assurance to mankind in every nation of the earth that it cannot fail, if it be prosecuted by industry and virtue, in advancing the welfare of the whole human race."[46]

President Young was absent visiting the settlements in Cache valley on the arrival of Mr. Seward, but as that gentleman expressed a very great desire to meet the founder of Utah, Mr. Wm. Jennings, at whose house Mr. Seward was a guest at a dinner, proffered to have President Young in Salt Lake City within three days if the ex-Secretary of State would stay so long, a proposition that was readily agreed to. Three days later the two illustrious gentlemen met "at a private dinner and a cosy interview," at the home of Mr. Jennings. "National affairs

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Louis Strauss, Consul for Belgium to Japan, M. Emile Mountran, Chancellor to the Belgian Consulate, "with other gentlemen and ladies from all parts of the world," said the announcement of the *News* on the arrival of this party.

And so the notables of the earth continued to come to "Zion," even before the branch railroad between Ogden and Salt Lake City was constructed, and still more abundantly did they come in the year following when that road was put in commission; Salt Lake City was on the high way of the nation, and all the notables journeying east or west stopped off to enquire concerning the things of which they had heard. And so it continues to this day—1914—only much more abundantly than in former times.

46. *Deseret News* of June 30th, 1869.

rather than 'Mormon problems,'" we are assured, "formed the topic of conversation," the interview lasting through several hours, ending with increased mutual admiration between the great American colonizer and the illustrious American statesman.[47]

Less than a month later came United States Senator Lyman Trumbull, of Illinois, and a large commercial party chiefly from Chicago. There were prominent representatives of the banks, the board of trade, and the different departments of the mercantile and manufacturing interests of Chicago. An interview was had with President Young at his office on the tenth of July, at which there were mutual felicitations and exchanges of courtesies. Col. James H. Bowen, having in charge the party, acting as master of ceremonies. The purpose of the party, as explained by Col. Bowen, was "to facilitate commercial relations with localities made tributary by the completion of the Union and Central Pacific railroad;" and esteeming Utah Territory to be one of the important points among such localities they had stopped over to give greetings and congratulations to President Young and his people, on the completion of the railroad, and the release of his people from their long and profound isolation. They had been "deeply awed and grandly impressed" with the majesty of the scenery of the far-famed Echo and Weber Canons, "and filled with wonder at the herculean task accomplished in the building of the railroad through and over such seemingly insurmountable obstacles of nature in so incredibly short space of time. "A considerable share of the credit and honor of his achievement properly belongs to you and your people," said Col. Bowen in his formal address to President Young when introducing his party,—"who rendered hearty, efficient and timely aid to the company charged with the completion of this gigantic national highway, and we hope you will live long to enjoy the fruits of these beneficial labors." A hearty welcome was extended by President Young to the party, and fitting acknowledgement made of the compliments paid to the Mormon people.[49]

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47 See Tullidge's Quarterly Magazine, July, 1881, pp. 661-2.
49. Deseret News—Weekly—of July 14th, 1869.

"It is a great advantage to our people," said the *Deseret News* in its editorial account of this party's visit, "To be seen at home by such a class of men as comprise this party. They are probably as free from prejudice as any men in the nation, and however much they may differ with us religiously, they can perceive that we are no common people, and that we possess qualities which entitle us to respect."[50] But alas! this same commercial party fell into the hands of the anti-Mormon in Salt Lake City before leaving Utah, and were well surcharged with anti-Mormon virus as became abundantly evident from their reports of Utah conditions to the eastern press.[51]

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50. "We thank you for your congratulations," said President Young, "and duly appreciate the high estimate which you hold of our labors. It is true we are the pioneers of this Western civilization, and that we have to some extent assisted in the development of the resources of the great West. It is true that we have graded over 300 miles of the great Pacific Railroad, an enterprise for which, by the way, we memorialized Congress in 1852; but this is of the past. Our labors are before the world, they speak for themselves. Our aim is to press onward, diligently to perform the part allotted to us in the great drama of life, and, having ever in view the glory of God and our country, the rights of man and social independence, strive for the maintenance of those glorious principles which compose our Federal Constitution." (Deseret News—Weekly—of July 14th, 1869, p. 270).

51. Linn says this commercial party "were welcomed by and affiliated with the Gentile element" ("Story of the Mormons," p. 556 and note). Whitney declares that the party were "wined and dined" by the Anti-mormon element of the community at the residence of Joseph R. Walker, where they became imbued with strong anti-Mormon sentiments, which through their reports of conditions in Utah had much to do with the agitation of the Mormon question in the east that "determined President Grant upon the prosecution of a vigorous, not to say belligerent, policy towards Brigham Young and the Mormons" (Hist. of Utah, Vol. II, pp. 324-5). Trumball, however, should be excepted from the number of those affected by this anti-Mormon virus, as he remained friendly disposed towards the Mormon people, and voted against several anti-Mormon measures introduced into the Senate of the United States, among them the Frelinghuysen bill. (Linn's "Story of the Mormons," and Tullidge's Hist. of Salt Lake City, pp. 547-8). Tullidge gives almost a Bacchanalian coloring to this banquet; "The two large rooms of Mr. Walker's residence were filled. Over forty persons were present. The munificent host had abundantly supplied his distinguished guests with champagne. Colfax and his friends, on their first visit to our city, fell upon strawberry beds, and discussed social problems with Brigham and the apostles over the dinner table, where the blessing was surely asked and "peace" and the "good spirit" invoked. But this meeting was belligerent. Champagne was better suited to its purposes than either strawberries or blessings. The spirit of war invoked rather than the "Good spirit of peace." There was, they say, that day, "The fullest and freest expression that had ever occurred in Utah," all of course with a strong decided anti-Mormon animus and aim. "Everybody gave vent;" "war talk ran around;" Senator Trumbull related to the company that famous conversation between himself and President Young, in which the latter had said in effect that, if the Federal officers didn't behave themselves, he would have them ridden out of the city; and from this meeting the report of that conversation between Senator Trumbull and President Young ran throughout the United States; and gave to Vice-President Colfax the advantage to push General Grant almost to the verge of actual war against Mormon Utah. Such was the bearing of that counsel held at the house of Mr. J. R. Walker, over

One report to which the *Deseret News* took strong exception stated that Brigham Young told Senator Trumbull that he would probably hear of some federal officials being put out of the Territory;[52] that Brigham Young had said that the Mormons would not obey the law of Congress prohibiting polygamy, "because congress had no right to interfere with that matter."[53]

The *Alta* California version of the interview represents President Young as giving evasive answers to Senator Trumbull's direct question;[54] the Chicago press dispatch, however, more likely represents what President Young said, since it gives the reason for the answer—"Congress had no right to interfere with that matter"—on the ground, of course, that it would be an act in violation of the constitutional provision forbidding Congress to prohibit the free exercise of religion.

On the 3rd of October, 1869, Hon. Schuyler Colfax, now Vice President of the United States, made his second visit to Salt Lake City. He was again accompanied by former Lieutenant Governor Bross, of Illinois, and Mr. Bowles of the Springfield (Mass.) *Republican.* The absence of Mr. Richardson, of the New York *Tribune,* who was with the party on its first visit, was

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Utah affairs, in July, 1869." Tullidge was *persona gratia* to the non-Mormons at that period, being connected with the Godbeite movement, and able to speak as by the card on the incident.

52. The *Atlas* California published a purported interview of a sensational character between President Young and Senator Trumbull in which the former is quoted as saying: "If the Government send bad men here we shall just politely conduct them on a little trip to the boundary line of the Territory and bid them go, never to return." Trumbull is represented as advising that he consult President Grant before taking such decided steps. President Young had said some thing a kin to the above in a discourse at the April Conference previous. Referring to the bad class of federal officers that had been sent to the Territory he remarked: "I think hereafter that we will take such men up gently and carry them out of the Territory and tell them not to come back again." But he also said in the very next sentence: "But we have gentlemen here as officers, men whom we respect and who respect us. But in some instances they have sent us thieves, liars, whore mongers, adulterers and swindlers. You may think this hard talk. I do not like to be under the necessity of using such language, but it is nevertheless true. Yet it is not often these things are mentioned. . . . Some may say that is coming out against the government. No it is not, it is against wicked administrators." The Discourse is published in *Deseret News* of June 9th, 1869.

53. Chicago Press dispatch of July 12th. Copied into *Deseret News* and accompanied by News editorial comment—Weekly—impression of July 14th, 1869.

54. "*Senator Trumbull*—Mr. Young, may I say to the President that you intend to observe the laws under the constitution?"

"*Young*—Well—yes—we intend to."

"*Senator Trumbull*—But may I say to him that you will do so?"

"*Young*—Yes, yes; so far as the laws are just, certainly." The reputed answers are very unlike President Young.

expressly regretted by Mr. Colfax. The city council voted to tender the hospitality of the city to the distinguished visitors, and pursuant to that arrangement sent a committee of two of the council with carriages to Uinta Station to meet the party, while the Hon. Mayor of the city, Daniel H. Wells, Hon. W. H. Hooper and others were appointed to act as a committee of reception on the arrival of the party at the Townsend House. These courtesies, however, were declined, ostensibly on the ground that "the party was traveling in a strictly private capacity;"[55] but really because Mr. Colfax had seen published in the eastern papers a purported discourse by Brigham Young in which he was represented as saying "that the President and Vice-President of the United States were both gamblers and drunkards."[56]

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55. *Deseret News'* account of the arrival of the party, *News* of Oct. 6th—Weekly; also minutes of City Council meeting of Oct. 1st. *Ibid*, p. 415.

56. Stenhouse assigns this as the reason for Colfax refusing the City's hospitality (Rocky Mountain Saints, p. 638); so also Linn, "Story of the Mormons," p. 556. Referring to the subject in the course of his speech from the veranda of the Townsend House, the Vice President said: "One thing I must allude to, personal to myself. The papers have published a discourse delivered last April by your highest ecclesiastical authority, which stated that the President and Vice President of the United States were both gamblers and drunkards. (Voices in the crowd, "He did not say so"). I had not heard before that it was denied; but I am glad to hear the denial now. Whether denied or not, however, I did not intend to answer railing with railing, nor personal attack with invective. I only wished to state publicity in this city, where the charge is said to have been made, that it was utterly untrue as to President Grant; and as to myself, that I never gambled to the value of a farthing, and have been a total abstinence man all the years of my manhood." ("The Mormon Question a Discussion between John Taylor and Schuyler Colfax"—*Deseret News* print, 1870, pp. 4, 5). This discourse was alleged to have been preached in April. The only discourse of President Young's delivered in April—or during the year—that in any way refers to the government or its officers is one preached on the 8th of April during the annual conference of 1869, and published in the *Deseret News* of June 9th. In that discourse, after pointing out the fact that the Lord must be the refuge of the Saints, the President said: "What will the world do for us? What will our government do for us? Why, after settling this country for twenty years, they have at last deigned to extend to Utah the benefit of land laws,—pre-emption rights, homestead advantages. Whom have they sent here as our officers? As a general thing, such men as Drake and his associates. . . . What would the government do for us? Judging from the past, if we were to ask them for bread, they would give us a stone, for a fish they would give us a serpent; ask for an egg and they would send us a scorpion. This has been too much the case. The government is just as good as ever existed; but the administrators of the government have in many instances, been the most contemptible men that ever disgraced God's footstool. Some may say this is coming out against the Government. No, it is not, it is against wicked administrators." There is no personal allusion whatever to either President Grant or Mr. Colfax in this, or as stated above, in any other discourse preached by Brigham Young during that year, but doubtless it was the language of the quotation above, and the language used in describing certain federal officials who had been sent to Utah—(see note 52)—employed in this same discourse that was twisted and made to apply to the chief officers of the then federal administration.

The Vice-President, while in Salt Lake City delivered a very frank speech in which he discussed the issues then existing between the federal government and the Church of the Latter-day Saints. The Vice-President rather loftily set aside the premises of the question on the side of the Saints, by saying: "I do not concede that the Institution you have established here [meaning the Mormon marriage system], and which is condemned by law, is a question of religion;" and with the premises of the opposition thus set aside he proceeded to admonish them to obedience to the law; at the same time, however, avowing that he had "no strictures to utter" as to the "creed" of the "Mormons" *on any really religious question.*"[57]

The speech of Mr. Colfax brought forth an able answer from Elder John Taylor, of the Council of the Apostles, which appeared in the New York *Tribune* and was widely copied in the Eastern press, and to which Mr. Colfax replied in a more formal article in the New York *Independent* of the 2nd of December, 1869. To this Elder Taylor made a rejoinder; and so satisfied were the Church authorities with the soundness of the principles on which Elder Taylor based his argument, and the skill with which he conducted it, that the speech of Mr. Colfax and the several *pro et con* papers that grew out of it, were gathered up and published in pamphlet form.

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57. This contention was admirably answered by Elder John Taylor in his review of the Vice-President's speech, when he said: "With all due deference, I do think that if Mr. Colfax had carefully examined our religious faith he would have arrived at other conclusions. In the absence of this I might ask, who constituted Mr. Colfax a Judge of my religious faith? I think he has stated that *'The faith of every man is a matter between himself and God alone.'* Mr. Colfax has a perfect right to state and feel that he does not believe in the revelation on which my religious faith is based, nor in my faith at all; but has he the right to dictate my religious faith? I think not; he does not consider it religion, but it is nevertheless mine.

If a revelation from God is not religion what is.

His not believing it from God makes no difference; I know it is. The Jews did not believe in Jesus but Mr. Colfax and I do; their unbelief did not alter the revelation.

Marriage has from time immemorial, among civilized nations, been considered a religious ordinance. It was so considered by the Jews. It is looked upon, by the Catholic clergy, as one of their sacraments. It is so treated by the Greek Church. The ministers of the Episcopal Church say, in their marriage formula, 'What *God has joined together*, let not *man* put asunder;' and in some of the Protestant churches their members are disfellowshipped for marrying what are termed unbelievers. So I am in hopes, one of these times, should occasion require it, to call upon our friend Mr. Colfax, to redeem his pledge. 'To defend for us our religious faith, with as much zeal as the right of every other denomination throughout the land.'" ("The Mormon Question" Taylor-Colfax Discussion, p. 7)

The discussion holds a permanent place in the polemical literature of the Church of the Latter-day Saints.

Another item in conection with Mr. Colfax's second visit is of historic value. While he was in Salt Lake City the Vice-President was taken into the confidence of the Godbeite conspirators and informed of the intended "schism" in the Mormon Church about to be inaugurated by the group of brilliant and supposedly influential men,[58] by the insidious and secret methods agreed upon by Godbe and Harrison during their sojourn together in the eastern states, the previous summer, and as agreed to by their confidants Kelsey, Lawrence, Tullidge, Stenhouse and Sherman, on their return to Utah.

Mr. Colfax was doubtless gratified to find that there was so large a prospect of revolt against the authority of Brigham Young within the "Mormon" Church; but it is equally certain that he would have been more pleased to have found those gentlemen who were promising the "schism," enlisted in a crusade inaugurated by the government than that they should occupy the position of a reform movement within the Church. That Mr. Colfax contemplated a crusade by the federal government admits of no question. Riding with Mr. Stenhouse through the city during this second visit, and engaging in a confidential talk concerning "Mormon Affairs," the Vice President put the pointed question to Mr. Stenhouse: "*Will Brigham Young fight?*"

It is to be inferred from the whole tenor of the Colfax-Stenhouse conversation, as reported by the latter to Mr. Edward W. Tullidge, that if Brigham Young would fight the Grant adminis-

58. That these men over estimated their influence in the Mormon community as appeared in this: Mr. Stenhouse in an interview with Mr. Colfax pleaded with him not to have the national administration interfere with Utah affairs since by doing so it would "*draw thousands back into the arms of Brigham Young who are ready to rebell against the "one Man Power" represented, as they held, in the person of Brigham Young.* (See Godbeite Movement, Tullidge's *Quarterly* Magazine, pp. 55, 56). But when the "schism" came, some three weeks later, the "thousands" that were "ready to rebell" did not materialize; the "New Movement" had no perceptible effect upon the masses of the people; the "leaders" of the "Movement" were all there was to it, and these in a short time dropped all pretensions as religious reformers," and soon "manifested a skeptical spirit toward religion of every kind, and directed their energies more completely into channels of business and money making". (Bancroft's Hist. of Utah, p. 650). Yet these men were the protestants against Brigham Young's "materialism," and "church commercialism."

tration a "short shift" might be made of the "Mormon question," as a different outcome from the contest with the Buchanan administration might be expected.[59]

Undoubtedly Mr. Colfax felt chagrined that his suggestion made on the occasion of his first visit that a "revelation" be obtained prohibiting polygamy, had not been acted upon; and he was now determined that there should be a crusade which would break down the masterly influence of Brigham Young in Utah and compel obedience to the Congressional-bigamy laws; and to his influence in the early part of Grant's first administration was due, in large part, the bitter anti-Mormon crusade of that period, and the years immediately following. However, so far as Mr. Colfax was concerned his influence in the nation soon came to an end, not only as to the Mormon question but as to all other public questions—going down in the general malstrom of public distrust and indignation against all those who were involved in the irregularities of the Credit Mobilier of America affair.[60]

Among the prominent national characters who visited Utah in the summer of 1870 was the Rev. Dr. J. P. Newman of the metropolitan Methodist Church of Washington, D. C.—of which President Grant was a trustee and member. Dr. Newman was also chaplain of the United States senate. The recent efforts in Congress to pass the Cullom Bill, the purpose of which was to aid in making effective the anti-bigamy law of 1862, had aroused wide spread discussion of the subject of polygamy in the press

59. Mr. Stenhouse's reply to the sharp inquiry of the Vice President was: "For God's sake, Mr. Colfax! Keep the United States off. If the Government interferes and sends troops, you will spoil the opportunity, *and drive the thousands back into the arms of Brigham Young*, who are ready to rebel against the 'One-man Power.' Leave the Mormon elders alone to solve their own problems. We can do it; the Government cannot. If you give us another 'Mormon War,' we shall heal up the breach, go back into full fellowship with the church and stand by the brethren. What else could we do? Our families, friends and life-companions are all with the Mormon people. Mr. Colfax, take my word for it, the Mormons will fight the United States, if driven to it in defense of their faith, as conscientious religionists always have fought. The Mormons are naturally a loyal people. They only need to be broken off from the influence of Brigham Young. Depend upon it, Mr. Colfax, the Government had better let us alone with this business, simply giving its protection to the 'New Movement men.'" (Tullidge's *Quarterly Magazine*, Oct., 1880, pp. 55-6). This answer by Mr. Stenhouse discloses the subject matter of the conversation—a contemplated crusade by the federal government against the Latter-day Saints.

60. See Note 1 and 2 end of chapter for brief statement of the Credit Mobilier of America, and Mr. Colfax's relationship thereto.

of the United States. Delegate Hooper's speech on the floor of the house of representatives, defending plural marriage as a religious institution of his constituents, having Bible sanction as well as the sanction of the special revelation to their church; and, moreover, Bible warrant as the Bible was interpreted by very eminent Bible scholars, called forth much comment from the press of the country, and led Dr. Newman to feel that some answer to this Biblical argument should be made. Accordingly on the 25th of April he delivered an elaborate discourse at the Metropolitan Methodist Church on the subject of Polygamy, in which he sought to maintain the Biblical condemnation of that form of marriage. Among those present were President and Mrs. Grant, Vice President Colfax, chief Justice Chase, Speaker James G. Blaine, and numerous other high national officials. It was an occasion when Washington officialdom turned out to hear. The Sermon *in extenso*, with a full description of official attendance, the psychological amosphere, etc., was published in the New York *Herald* of 25th April. To this Washington sermon Elder Orson Pratt made an extended answer in a letter to Utah's delegate to Congress, Mr. W. H. Hooper, which was published together with Dr. Newman's sermon in pamphlet form, issuing from the *Deseret News* press just upon the arrival of Dr. Newman in Salt Lake City.[61] A local paper, the Salt Lake Daily *Telegraph*, on the 3rd of May, had suggested in its columns that Dr. Newman's Washington sermon "should have been delivered in the Tabernacle in Salt Lake City, with ten thousand "Mormons" to listen to it and then Elder Orson Pratt, or some other prominent Mormon should have had a hearing on the other side and the people allowed to decide. "Let us have a fair contest of peaceful argument, and let the best side win," said the *Telegraph* writer. "We will publish their notices in the *Telegraph*," he continued, "report their discourses as far as possible, use every influence in our power, if any is needed, to secure them the biggest halls and crowded congregations, and we are satisfied that every opportunity will be given them to

61 "*Just Out*. We now have for sale at this office in Pamphlet form, a sermon by the Rev. Dr. Newman, Pastor of the Metropolitan Methodist Church, Washington (D. C.), and a reply to the same by Elderson Pratt, Sen. Price twenty five cents per copy." (Deseret News—Daily—of Aug. 3rd, 1870).

conduct a campaign. . . . Come on and convert them (i. e. the Latter-day Saints) by the peaceful influences of the Bible instead of using the means now proposed [special, hostile legislation]. Convince them by reason and scriptural argument, and no Cullom Bill will be required." This suggestion of the *Telegraph*, by that time not a Mormon publication at all,"[62] Dr. Newman in Washington was pleased to interpret as a challenge to him to visit Utah and debate the question of polygamy, "with Brigham Young." Whereupon, and without further inquiry or arrangement, but not without certain trumpetings through press dispatches of his intentions,[63] Dr. Newman started for Utah.

The day following his arrival in Salt Lake City, the Doctor addressed a letter to Brigham Young (dated Aug. 6th), informing the President of his arrival, and that he was now "ready to hold a public debate with you [i. e. President Young], as head of the Mormon Church" on the question, "*Does the Bible Sanction Polygamy.*" Naturally President Young having issued no challenge, and the *Telegraph* in no sense being his organ, or the organ of the Church of the Latter-day Saints, he disclaimed having issued a challenge, or being responsible for any issued by others; but extended to Dr. Newman an invitation to address the congregation in the Tabernacle on Sunday—the above exchange of letters occurring on Saturday. This invitation was declined, as the Doctor claimed to have made other arrangements for speaking in the city on Sunday, *viz.* at Faust's Hall, where but very few, on account of the hall being a small and inconvenient place, had the opportunity of hearing the eminent minister.

An exchange of acrimonious letters took place over this proposed debate, in which Dr. Newman added nothing to his reputation either in gentlemanly deportment, manifestation of Christian spirit, or skill in conducting a controversy.[64] President Young in one of his letter to the Doctor said:

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62. *Deseret News*—Weekly—of Aug. 10th, 1870, p. 317. The *Telegraph* had by that time passed into the hands of Dr. Fuller, a non-Mormon.

63. See *Deseret News* of August 3rd, 1870, Editorial in anticipation of Newman's coming, according to reports from the East.

64. In justification of the comment I appeal to the correspondence itself, published in full in connection with the published debate, *Deseret News* print, 1877. pp. 1-8.

"If you think you are capable of proving the doctrine of 'plurality of wives' unscriptural, tarry here as a missionary; we will furnish you the suitable place, the congregations, and plenty of our Elders, any of whom will discuss with you on that or any other scriptural doctrine."

This the Doctor resented as an "impertinent suggestion," and regarded it as a "cheap and safe attempt to avoid" the debate Dr. Newman had come to Utah to hold with Brigham Young. To bring matters to a head Dr. Newman issued a direct challenge to President Young to personally debate with him the question "Does the Bible sanction Polygamy," and the President accepted the challenge but named John Taylor or Orson Pratt as his representatives in the debate, Dr. Newman to take his choice between them. Dr. Newman was highly displeased with this arrangement and wrote a sharp letter to President Young saying that he had challenged Brigham Young to debate not John Taylor or Orson Pratt. However, since Brigham Young had refused to debate with him, the Doctor consented to meet Orson Pratt in public discussion of the proposed question. It seemed probable at one time when arranging the preliminaries that the debate would not take place owing to the inability of the conferrers to satisfactorily arrange the conditions of the debate. Whereupon President Young renewed his invitation to Dr. Newman, under date of Aug. 11th, in which, after noting what seemed to be the end of negotiations for the debate, the President said:

"I take pleasure in again tendering you the use of either of the tabernacles in this city in which to deliver one or more lectures, as you may choose, upon the subject of pluraltiy of wives commonly termed polygamy, each lecture to be of such length as you may please, to be delivered at such hours in the day time as you may appoint."[65]

It was finally arranged, however, for a public debate to be held between Dr. Newman and Orson Pratt. The question to be "Does the Bible Sanction Polygamy?" Elder Orson Pratt to take the affirmative of the question. It was arranged for the debate to continue through three days, two hours each day, the time being equally divided between the speakers,—one hour

65. *Deseret News*—Weekly—of August 24th, 1870

each.[66] "The Bible in the original and English tongues" to be "the only standard of authority in the debate." The discussion occurred on the 12th, 13th and 14th of June. The attendance on the first day was between three and four thousand; the second day, much larger, and on the third day, Sunday, it was estimated that the attendance was eleven thousand.[67] A full report of the debate was given from day to day in the principle newspapers of Salt Lake City, and in the *Deseret News* current weekly impression,[68] so that the Mormon people throughout Utah were immediately presented with the evidence and argument that could be adduced from the Bible against the institution they had accepted in faith and practice. Later, namely, in 1874, and again in 1877, the debate was published in pamphlet form by the *Deseret News,* with the approval of the Church, of course.

There can be no question that the weight of evidence and the force of argument in the debate was on the side of the affirmative, while in flourish of rhetoric and in eloquence of appeal to sentiment Dr. Newman doubtless excelled his opponent.[69] To this flourish and to this appeal Elder Pratt paid but little

66. Dr. Newman preferred that the debate be so conducted that the affirmative would occupy the whole time in one day's meeting, and the negative the next day's and so continue to the close of the debate. Elder Pratt preferred that the speakers occupy part of each day's meeting in half hour speeches, two speeches on each side a day, the debate "to be continued as long as desired by Dr. Newman;" (*Deseret News* of August 24th, 1870). A one hour speech for each side per day was the compromise. The matter of Elder Pratt being willing to have the discussion continued as long as desired by Dr. Newman is mentioned here because the Doctor has said in discussing the preliminaries that he would like, "nine hours to bring forth his arguments." Yet it was Dr. Newman that limited the discussion to three days and two hours to each session of the debate. Elder Pratt was willing for the debate to "continue as long as desired by Dr. Newman;" and in his second speech in the debate referred to the matter of time, saying: "Dr. Newman has said he would like nine hours to bring forth his arguments, and his reasoning for the benefit of the poor people of Utah. I wish he would not only take nine hours, but nine weeks and nine months and be indeed a philanthropist and missionary in our midst." But not withstanding all this in his closing speech of the debate Dr. Newman sought to create the impression that he had been limited in time by his opponent. He said: "I regret very much that I have not time to notice all the points which have been brought forward. *I desired to do so. I pleaded for more time: but time was denied us, I am therefore restricted to one hour.*" (The debate p. 58). This lapse of the Doctor in the matter of truth was rebuked by the *Deseret News.* Editorially the day following the debate (see impression of the Daily *News* of Aug. 15th, 1870), and some of the above facts are set forth.

67. *Deseret News* Editorial account, impression—Daily—June 15th.

68. See *Deseret News*—Weekly—of June 17th, 1870.

69. Dr. Newman in his Washington sermon had made an effort to substitute a marginal rendering for the translation of the text of Leviticus XVIII; 18; so that whereas in the text it reads: "Neither shalt thou take a wife to her sister, to vex her," etc., it would be made to read—from the marginal rendering—*"Neither*

attention; he adhered strictly to the task before him, namely, to prove that the Bible sanctioned Polygamy. As to whether plurality of wives conformed best to modern ideas of the purpose of matrimony or not, that was beside the present issue; whether it was the most convenient and the most desirable system of marriage for all classes and conditions of men in modern times, was not the question. The plain, simple question for discussion was, "Does the Bible Sanction Polygamy," and if the giving of laws by Jehovah, which under some circumstances and conditions enforced a plurality of wives upon God's people as a rule of conduct is a Bible truth—and it is; if divine legislation conserving the rights of both polygamous wives and their offspring can be cited from the Bible—and it can be; if blessing these unions and making them fruitful in direct answer to prayer is a Bible fact—and it is; if honoring with his favor and fellowship the offspring of polygamous unions finds Bible illustration—and it does; if owning and blessing as the special favorites and servants of Jehovah the men who practiced this system of marriage is the Bible represented attitude of Jehovah towards these polygamists,—and it is; then, all this being true, there can be no question that the Bible sanctions this form of marriage.[70] And yet it was not because the Bible sanctioned polygamy that it was accepted as matter of faith and practice

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shalt thou take one wife to another to vex her," etc. Accepting this marginal rendering Dr. Newman had in this passage the law of the Bible he could find nowhere else —"*Neither shalt thou take one wife to another.*" Elder Pratt having observed the stress, that Dr. Newman laid upon this marginal rendering, hoped that he would introduce it in the debate in the Tabernacle. Accordingly he himself to encourage the Doctor and to give him confidence made reference to an unimportant marginal passage which had the desired effect. The Doctor armed with the opinion of some modern Biblical scholars assumed the marginal rendering as expressing "the great constitutional law, before which all other laws relating to plural marriage were to be nullified and vanished away like smoke;" but Elder Pratt took up the Hebrew phrase, "*ishah el ahotah,*" which in the text of the authorized version is translated "*a wife to her sister,*" and maintained it as the proper, legitimate, literal rendering of each word, much to surprise of Dr. Newman who was not aware that his Mormon opponent was acquainted with the Hebrew. With the collapsing of his great marginal law the rest of the Doctor's argument fell with it. (See the Debate, and also subsequent article on "Dr. Newman's Marginal Law, by Orson Pratt, published in Connection with the Pratt-Newman Debate, pp. 68-71).

70. See the speech of Delegate Hooper in Congress, the Newman Washington Sermon with answer of Elder Orson Pratt; the Pratt Newman Debate; and more especially Thelyphthora, Vol. I, Ch. IV, pp. 74, to 300. My citation is to the second edition—1781—and the part of the work referred to deals more especially with the subject of "Polygamy," the author saying this in defense of the title of his chapter: "polygamy strictly speaking is of two sorts; either when one woman promiscuously admits of more husbands than one, or when one man is at the same time joined in marriage to more than one woman. The former of these is too ab-

by the Latter-day Saints. On the contrary, it became a principle of faith and practice with them because God had revealed it to them through their Prophet as a true and righteous principle in itself, and permissible within certain limitations and conditions, and for specific purposes. The Latter-day Saints appeal to the Bible for its sanction was merely for corroboration of the righteousness of the principle revealed to them in the new dispensation of things God was unfolding to the world, and this they found. As confirming the truth and righteousness of the revelation they had received, the Bible was perfect in its sanctions, and they could be assured that what God had sanctioned by so many and varied circumstances bespeaking his favor—noted above and expounded at length in the learned works cited,—could not be other than true and righteous.

As for polygamy being at variance with the modern conceptions of the purpose of the wedded state, a menace to the sanctity of the home and the convenience and pleasures of life, elements of the question introduced by Dr. Newman that were foreign to the issue in his debate with Elder Pratt, they constitute another question. Latter-day Saints did not accept into their faith and practice the plural wife system with the idea that it increased the comfort, or added to the ease of any one. From the first it was known to involve sacrifice, to make a large demand upon the faith, patience, hope and charity of all who should attempt to carry out its requirements. Its introduction was not a call to ease or pleasure, but to religious duty; it was not an invitation to self-indulgence, but to self-conquest; its purpose was not earth-happiness, but earth-life discipline, undertaken in the interest of special advantages for succeeding genertaions of men. That purpose was to give to succeeding generations a superior fatherhood and motherhood, by enlarging the opportunities of men of high character, moral integrity, and spiritual development to become in larger measure the progenitors of the race. To give to women of like character and

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horrent from nature, reason, and scripture to admit of a single argument in its favor, or ever to deserve a moment's consideration." The author therefore, by the word '*polygamy*,' only means the latter, throughout this treatis." (Thelyphthora, Vol. I, p. 75, note). It is in this sense also that the word is used in this History. More recent writers I may say, have added nothing in the way of scholarship or thoroughness of treatment to Madden's argument for Bible sanction of polygamy, in the above work.

development a special opportunity to consecrate themselves to the high mission of motherhood. The new and everlasting covenant of marriage, was instituted for the fullness of God's glory.[71] Under it "if any man espouse a virgin," to quote the law, "and desire to espouse another, and the first give her consent; and if he espouses the second, and they are virgins, and have vowed to no other man, then is he justified; he cannot commit adultery, for they are given unto him [i. e. under the law of God and by the authority of God's priesthood]; *for they are given unto him to multiply and replenish the earth*," according to God's commandment, and to fulfill the promise which was given by the Father, "before the foundation of the world, *and for their exaltation in the eternal worlds, that they may bear the souls of men;* for herein," said Jesus, through whom the revelation was given, "is the work of my Father continued, that he may be glorified."[72] There is nothing here or elsewhere in the revelation promising ease or happiness or pleasure; there is nothing but an exalted motive presented for this marriage system,—the bearing of the souls of men, replenishing the earth with the race of men. Procreation of the race is the first and high purpose of the marriage institution, all else incidental; and procreation under conditions the most favorable to the welfare of the offspring, and hence to the race; first in giving in larger measure progenitors of high character—men who have given evidence of upright, temperate, virtuous lives; women chaste, noble, and willing to consecrate their lives to the duty of motherhood, to this end sacrificing earthly pleasure, including the exclusive companionship of the husband promised in monogamous marriages. As some women against the promptings of natural inclinations of the social instincts, of the cravings for wedlock companionship, and the desire for offspring, will renounce the world and the noble office of motherhood itself, and retire into dismal retreats and spend their lives in prayer and meditation, only emerging into the world to render service of teaching the youth, visiting the needy, or nursing the sick; so plural wives among the Latter-day Saints, and first wives who consented to their husbands entering into these rela-

71. Revelation on Marriage, Doc. & Cov. sec. cxxxii: 6.
72. Revelation on Marriage, Ibid verses 61-63.

tions, accepted the institution from the highest moral and religious motives.[72½] First as being a commandment of God instituted "for their exaltation in the eternal worlds, that they may bear the souls of men;" and, second, that they might bear the souls of men under conditions that gave largest promise of improving the race and bringing forth the super-men who shall lead the way to that higher state of things for which the world is waiting; and which the first condition precedent to obtaining, is a consecrated fatherhood and motherhood, such as is contemplated in the plural marriage system of the Latter-day Saints. The first consideration in this marriage system was not exclusive companionship, pleasure, ease, temporal happiness; but offspring and their physical, moral, spiritual and intellectual welfare, in a word—race culture. This required self-discipline, always involving sacrifice of self, and living constantly in the truest and highest altruistic spirit. It was in the name of a divinely ordered species of eugenics[73] that the Latter-day Saints accepted the revelation which included a plurality of wives.

It was not to gratify the sex lust of man that polygamy was instituted; nor to provide a better system of sex-relations than monogamous marriage with promiscuous sex indulgence tacitly allowed (i. e. prostitution). It is not enough to say that a plurality of wives is a better system, has more of justice in it, than momo-

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72½. On this phase of the subject, the Right Rev. D. S. Tuttle, D. D., LL.D., formerly Bishop of Montana, Idaho, and Utah; and for seventeen years a resident of Utah and therefore in personal contact with Mormonism, and later Bishop of Missouri—has an enlightening passage. He says in a chapter on Mormonism:

"I pause to remark that if some strength accrues to Mormonism from its adjustment to the nature of man, some unsuspected strength also is won to it by its appeal to the nature of woman. The self-sacrific in woman, the appeal is made to that. One knows not much of human life if he is ignorant that one of the dominating characteristics of woman is the power of self-sacrifice. If self-sacrifice in woman is continually in evidence in mothers, in wives of worthless husbands, in sisters, in religious communities, and in women giving up all in devotion to love, or or duty, or religion, who wonders that the appeal to it, as in the matter of polygamy, strange as it seems, must be accounted an element of strength to Mormonism. As matter of fact, there were no more strenuous and determined upholders of polygamy than most of the Mormon women who were personally sufferers by it. To their nature it was calamity and hateful. To their spirit it was religious duty and a call for self-sacrifice. Therefore they were loyal to it, determined to live in it, and if need be, to die for it. Spirit, roused and active, evermore predominates over nature." (Reminiscences of a Missionary Bishop. 1906, second edition, pp. 307-8).

73. "Eugenics, the science of generative or procreative development, the doctrine of progressive development of the human race through improved conditions in the relations of the sexes; and "now recognized as a necessary development of the method into which Darwin has cast the thought of the age." See Century Dictionary.

gamous marriage supplemented by a plurality of mistresses, or one wife and promiscuous indulgence by prostitution; for the efficient answer to all that will be found in the ready reply to the question, "why have either?" Why not have monogamy, and insist upon strict continence within that relationship as the best adjusment of the sex-relations? Neither kept mistresses nor prostitution are a necessary addenda to monogamy,—"the necessary evil" of some sociological writers. Unless polygamy as taught under the new dispensation of the gospel and accepted by the Latter-day Saints can be held as a better system, or at least as presenting advantages for the race, under possible, special conditions, over and above those possessed by monogamy at its best, and without reference to those abhorrent sex relations, which while they often do exist in connection with monogamy are not a necessary corollary of it, then Mormon polygamy has no right to existence.

This superiority over monogamy at its best, or as at least affording advantages to the race not possible under universally enforced monogamy, can only be affirmed in the name of the species of the divinely appointed eugenics of the revelation on marriage referred to, by which a consecrated fatherhood and motherhood is provided in the race; the possibility of a larger fatherhood in the race by superior men—the men of high character, of upright, temperate, virtuous, religious lives referred to in a previous paragraph. To put the defense of Latter-day Saint polygamy on a less exalted plane than this—which is the plane where God's revelation puts it—is to debase the institution and make it indefensible at the bar of enlightened reason, or before moral and religious standards.

While this view sets forth procreation as the first purpose of marriage it by no means ignores other purposes, namely, companionship, though it may place it upon a different basis from the companionship of monogamous marriage. On the part of the man it will not be exclusive; and for the wife it will not be uninterrupted. But for the man it will be a companionship more disciplinary than is possible in monogamy; and for woman a companionship of greater dignity, calling forth in the management of her household in larger measure and use the exercise of executive abilities, self-reliance, and self-control, leading to con-

trol over others in the domestic circle, that gives a queenly dignity to such a matron; and for both lifts the association of husband and wife out of the uxorious sentimentality that too often in monogamy renders that association half or wholly contemptible.[75]

It has already been stated in these pages[76] that the Church of the Latter-day Saints has never stood as the advocate of indiscriminate or general practice of a plural wife system under mere human or legal sanctions; but on the contrary has held to a limited and specifically guarded practice under what they have held to be divine sanctions, restraints, and regulations. It was indeed a principle of religion to the Latter-day Saints, a holy sacrament; such restraints as the Church imposed, and limited as a religious privilege and duty to persons of high character and approved lives, and living under the most sacred obligations to chastity—it doubtless would have resulted in accomplishing that which was designed by its introduction into the faith and practice of the Church; *viz*: to enlarge the opportunity of superior men and women to devote themselves to the establishment of a consecrated fatherhood and motherhood within the Church, though to do so they would doubtless have had to sacrifice many worldly advantages, personal ease, and temporal pleasures. Yet it would have afforded the opportunity of producing from that consecrated fatherhood and motherhood the improved type of man the world needs to reveal the highest possibilities of the race, that the day

75. Here it must be allowed that the plural wife system offers more likelihood of the attainment of such ideal and dignified companionship, and makes more probable the consecration of woman to the holy office of motherhood than monogamy does, because of the radical difference in the natures of man and woman as touching these matters. A difference that it was reserved for a woman of the Church, and one who had accepted in full its marriage system, to put into the most acceptable phraseology:

"The duties and requirements of a woman, fulfilling her sphere of motherhood, absolutely demand certain periods of continence, which if not granted her through thoughtful solicitude for her welfare by her husband, or self-assumed, by virtue of the dignity of womanhood, or by the divine right of free agency, the principle of her life and health is encroached upon, and she is forced to perform her ever-increasing labors and duties upon a decreasing store of vitality. There is nothing in the economy or requirements of man's life which requires this abstinence beyond the temperate limit of his powers of vitality; and this to me is a proof unanswerable and *prima facie* on the spheres of manhood and womanhood, of the divinity, and I believe is a necessity, for the salvation of the human race, of the truth and divinity of plural marriage." Romania B. Penrose, in a lecture before the Female Relief Society in Salt Lake City, excerpts of which were published in the *Woman's Exponent*, 1880.

76. Chapter XL, note 6.

of the superman might come, and with him might come also the redemption and betterment of the race.[77]

NOTE 1. THE CREDIT MOBILIER OF AMERICA: "During the political campaign of 1872, great excitement followed the exposure of the so-called Credit Mobilier speculations. In the construction of the Union Pacific Railroad it was found expedient to organize a corporation of contractors to do the work. Large profits were expected from the operations of the company, which was named "The Credit Mobilier of America." During the years 1867 and 1868, the chief promoter of this enterprise, Mr. Oakes Ames, a rich manufacturer and a representative in Congress from Massachusetts, sold many shares of the stock to members of Congress. As the fortunes of the company might be affected by the action of Congress (although this was denied), the holding of stock by men whose votes might determine this action was naturally regarded as improper, to say the least. The fact that Ames did not demand cash payments for the stock so disposed of, but allowed the payments to be deferred until the earnings of the company should bring generous dividends to the shareholders, was cited as evidence that this was practically a gift of stock to each man who received it on those conditions. The publication of the facts, which were [said to be] vastly exaggerated and over-colored, added zest to the [Presidential] canvass of 1872; and when the House of Representatives in the following year took up the matter and ordered an investigation, the volume of political gossip was greatly increased. Letters and other documents were produced, and a popular saying which long survived was extracted from the proceedings. Ames had declared that in the distribution of Credit Mobilier stock he had placed it *'Where it would do the most good.'* The House Committee,

77. Of course it will be understood that the foregoing statements and arguments are but an academic setting forth of the plural marriage system of the Church, and are not intended as propaganda of it. The Congress of the United States passed laws against polygamy as practiced by the Church, while Utah was a Territory, and the Supreme Court of the United States having passed upon and upheld the constitutionality of those laws, the Church after contesting in the courts by constitutional means every phase of the law until all the law points were settled, then yielded to the law and by official manifesto discontinued the practice of polygamous marriages (Oct., 1890). This for the reason that one of the articles of the Mormon faith declares:

"We believe in being subject to kings, presidents, rulers and magistrates, in obeying, honoring and sustaining the law."

Therefore, plural marriages were discontinued by the act of the Church, while Utah was still a Territory, and the responsibility for the discontinuance is with those who enacted and sustained the law against that principle of the faith of the Latter-day Saints. A constitutional provision forever prohibiting "polygamous or plural marriages" was required as a condition precedent to statehood for Utah, and was adopted by the state constitutional convention. So that polygamous marriages are forbidden in Utah by the law of the state, and are inhibited by the Church everywhere. No plural marriages now receive her sanction.

after a long and patient examination, exculpated all the men who had been involved in the charges of *corruption,* but recommended that the stigma of "absolute condemnation" be fixed upon James Brooks, of New York, a member of the House and a Government Director of the Union Pacific Railroad, and upon Oakes Ames; the former was thus censured for "the use of his position to procure the assignment of Credit Mobilier stock;" and Ames's offense was declared to be that of 'seeking to procure congressional attention to the affairs' of his corporation.

"The investigation blighted many reputations of men who had before that time stood high in public esteem. While the inquiry was in progress, popular interest was kept on the alert to see which of the prominent men in Congress would next fall before the deadly influence of the famous 'little memorandum book' from which Mr. Ames refreshed his memory while under examination. The very name of his corporation became a byword and a hissing; and it sufficed to ruin any public man's fair fame to say truly of him that he was 'a Credit Mobilier statesmen.' On the other hand, the divulging of facts which showed the enormous profits of this peculiar enterprise greatly whetted the popular appetite for *speculation and to a considerable extent demoralized the people.*" (Hist. of U. S. Bryant-Gay-Brooks, Vol. V, pp. 436-7).

Note 2. Schuyler Colfax's Decline in Popularity and his Connection with Credit Mobilier of America. Schuyler Colfax was born March 23rd, 1823; and was the grandson of the last commander of Washington's life-guard. He was elected in November, 1868, Vice-President of the United States. "In 1870 Mr. Colfax wrote a letter declaring his purpose to withdraw from public life at the close of his term as Vice-President. He was subsequently led to change this determination, and in the Republican National Convention at Philadelphia in 1872, he was a candidate for the nomination as Vice-President and received 314½ votes, 384½ being given to Henry Wilson of Massachusetts, who was accordingly nominated on the first ballot." (The American Cyclopeadia, Vol. V, Art Colfax). About the first of September, during the presidential campaign charges of bribery and corruption in connection with the Union and Pacific Railroad, and its construction company, the "Credit Mobilier of America" were cast into the Arena; and Mr. Colfax, being urged thereto by his many friends, made a speech at South Bend, Indiana, his home city, defending himself and others against these charges. Of this speech even his biographer, Mr. O. J. Hollister, a relative of the Vice--President by marriage,

(he was married to Mr. Colfax's half sister), and the United States Revenue collector for Utah, says: "In the light of subsequent events this speech was charged against the Vice-President as intentionally misleading, because it purported to make a personal explanation, and it did not make it a full one. By making it seem as if the personal explanation was the first instead of the merest incident of the speech, some color was given to the charge." (Life of Colfax-Hollister, pp. 384-5). Even his friend Bowles, Editor of the Springfield (Mass.) *Republican* bitterly denounced Colfax for this speech (Id.).

In 1873 Mr. Colfax was implicated in the charges of corruption brought against members of Congress who had received shares of the "Credit Mobilier of America," and was repeatedly examined before the congressional committee appointed to investigate the matter. A resolution directing the judiciary committee of the house of representatives to inquire if the evidence taken by the committee called for the impeachment of any officer of the government, brought forth the report, on Feb. 26, 1873, declaring that there was no ground for the impeachment of Mr. Colfax, inasmuch as the alleged offense of bribe taking, if committed at all, *had been committed before he became Vice-President.* This report was accepted, and nothing more done with the matter (The American Cyclopedia, Vol. V, Art. Colfax, p. 54).

And there the matter rests so far as the congressional investigation is concerned.

It should be said, however, that the "resolution for impeachment" proceedings failed by the narrow margin of three votes; as the Washington *Morning Post* put it—"a resolution for the impeachment of the bribed and perjured Colfax failed by a majority of three votes." (The *Post* article is copied into *Mill. Star,* Vol. XXXV, p. 219-21. See also Congressional Record 26th and 27th of February, 1873, for report respecting impeachment). The most incriminating circumstance against Mr. Colfax is thus stated by the New York *Tribune*: "The astounding developments in the Credit Mobilier investigation, make it necessary for the Vice-President to show, if he can, that he has not sworn falsely. The circumstances are these: Mr. Colfax denied that he had received a certain specific dividend of $1,200 on Credit Mobilier stock. Mr. Ames swore positively that he gave the Vice-President a check on the House Sergeant-at-Arms for that amount. The check, dated June 20, 1868, is produced; it was paid June 21, Mr. Colfax's bank account is examined and it is found that on June 22, 1868, he deposited the precise amount of $1,200 in bank notes; and, as if to emphasize the fact of the deposit, the whole amount of it was specified to be $1,968.63, of which

all but $1,200 was in checks. The fatal sum stands by itself.

"We have not the heart to comment at length on this apparently utter and deplorable fall. We hope, for the sake of the pure name which Mr. Colfax has so long borne before the country—for the sake of the country itself we hope—that he may yet be able to break down this damning wall of circumstantial evidence which has slowly encircled him. The only way of escape is to prove that the $1,200 deposited on June 22 was received from some other source than the agent of the Credit Mobilier Association." (The *Tribune* article is quoted in *Mill. Star,* Vol. XXXV, p. 117-18).

Colfax "professes virtuous indignation at the statement of Ames," said the N. Y. *Herald* correspondent, under date of 23rd of January, 1873, "and pronounces them 'infamous.' But it is known that to-morrow a respectable cashier in the office of the Seregant-at-Arms-Moses Dillon is his name—will swear that he paid the check made payable to Schuyler Colfax." (The *Herald* Article is reproduced in *Mill. Star,* Vol. XXXV, p. 117-8).

Then came the climax: "Mr. Ames deposed before the committee that he had paid to Mr. Colfax on a certain day $1,200 as dividends on Credit Mobilier stock held by Mr. Colfax; that unhappy gentleman replied under oath that he had never held a share of the stock, nor received a penny from Ames; and then was struck dumb by the production by the latter of an account book, in which the payment was duly set down, and by evidence that on the day after the payment Mr. Colfax had deposited at his bankers the indentical sum in question. It required several days for Mr. Colfax to invent his reply to this unexpected proof of his guilt; but at length he came forward with the lame story that by a remarkable and most unfortunate coincidence he had on the day named received from a person now dead, in an unregistered letter now destroyed, a present of $1,000, and that the remainder of the $1,200 he had received on the same day from his stepfather." (Morning *Post,* reproduced in *Mill. Star,* Vol. XXXV, p. 220). "*He is dead,*" said the Albany *Times* of the period, "and on his tombstone should be inscribed, '*Died of too much Credit Mobilier.*'" (The *Times* Article is copied into the *Mill. Star,* Vol. XXXV, p. 119).

It is but just to Mr. Colfax to say that he denied the truth of the charges made against him, and his friends have always regarded his character as irreproachable.

On the other hand, his opponents during the winter of 1873—and some followed him with it to the close of his life—vehemently assailed him with these charges of corruption, and it cannot be denied but that they cast a shadow over the latter part of Mr. Colfax's life.

Historic Views and Reviews

R. E. Parsons Heads Historical Society

From *Flushing Evening Journal,* Tuesday, June 16, 1914.

Robert E. Parsons of 371 Broadway was elected president of the Flushing Historical Society at the annual meeting in the Old Bowne House, Bowne avenue, Monday evening. Mr. Parsons succeeds William G. Kirkland of 120 Lawrence street.

John T. Van De Water of 99 Madison avenue was re-elected first vice-president. Miss Fannie C. Lowden of 173 Barclay street was elected second vice-president; Clinton B. Smith, Jr., of 137 Maple avenue, treasurer; Miss C. M. Parsons of 371 Broadway, secretary, and Harvey K. Lines of 28 Sanford avenue, corresponding secretary.

Fifteen persons attended the meeting. A feature of the meeting was an historic reading by Josiah C. Pumpelly of Manhattan, historian of the Sons of the Revolution. He read papers on the lives of William Floyd and Francis Lewis, both signers of the Declaration of Independence and at one time residents of Long Island. Mr. Pumpelly also read a number of amusing epigrams and epitaphs.

According to Mr. Pumpelly's papers, both Mr. Floyd and Mr. Lewis were natives of England who had come to the Colonies as young men to seek their fortunes. When the break between Great Britain and the Colonies came, both were found ardent patriots and exponents of the cause of liberty. Mr. Floyd lived on the south side of Long Island near Southampton.

The sketch of Mr. Lewis was the more interesting from a Flushing viewpoint. According to legend, he lived for a time in Whitestone near the site of the Schermerhorn place at Whitestone Point. The records are not clear, however, and the exact location of his Whitestone home has never been decided.

Mr. Lewis was buried in Trinity churchyard, Manhattan, but

for a long while many authorities disputed that fact. Several years ago, however, the records were searched at the instance of the Sons of the Revolution, and it was established that Mr. Lewis had been buried in the historic churchyard.

"But while we are sure that he was buried in Trinity church," said Mr. Pumpelly, "we have been unable to find his grave, and his remains are lost somewhere in that historic burying ground in the heart of Manhattan."

The members of the historical society displayed great interest in the passing of "Ye Olden Tavern," popularly called "The Fountain House," at Broadway and Main street, to make way for a moving picture theatre. Robert E. Parsons said he was extremely sorry to see the old house go.

"I wish something could be done to preserve it," said Mr. Parsons. "I have been talking with Jacob Haubeil about it, and he has agreed with me that it would be a splendid thing to save the building. It would, of course, have to be moved to another site."

Christopher Clarke said that he believed that the expense involved in that plan would make it impossible to save the old building. It was decided to have a good photograph taken of the Fountain House for the archives of the society.

The days when Flushing had no water system and when citizens had to get their water at village pumps were recalled when Christopher Clarke presented the society with a receipt that his father, the late Robert L. Clarke, had been given on November 20, 1869, after paying $8 pump tax. The tax was for the use of the old pump at Bowne and Sanford avenues. The receipt was signed by Henry Clement. Village Treasurer, and W. H. D. Nimmo, Village Clerk.

Mr. Parsons gave the society a set of resolutions drawn up by the Village Trustees on January 1, 1891, on the occasion of the late Henry Clement's retiring from the treasurership. The resolution thanked Mr. Clement for his twenty-five years of service to the village, and congratulated him on the fact that during that time the village had never sustained a financial loss.

The Proper Use of the American Flag

President Wilson on June 15, 1914, in speaking to a great crowd of citizens assembled before the State War and Navy Building at the National capital to celebrate "Flag Day," in the course of his address, pointed toward an American flag hoisted by a squad of bluejackets and uttered this patriotic sentiment that will go down to posterity as an earnest of his endeavor when the question of the settlement of the Mexican question was before the board of arbitrators assembled at Niagara Falls.

"*This flag for the future is meant to stand for the just use of undisputed national power.*"

The address as reported is as follows:

"Our spirits as well as our States are now reunited, and nobody questions our ability to push forward our economic affairs upon lines of unparalleled successes and prosperity.

"I sometimes wonder why men take this flag and flaunt it. If I am respected, I do not have to demand respect. If I am feared, I do not have to ask for fear. If my power is known, I do not have to proclaim it. I do not understand the temper, neither does this nation understand the temper, of men who use this flag boastfully.

"This flag for the future is meant to stand for the just use of undisputed national power. No nation is ever going to doubt our power to assert its rights, and we should lay it to heart that no nation shall ever henceforth doubt our purpose to put it to the highest uses to which a great emblem of justice and government can be put.

"It is henceforth to stand for self-possession, for dignity, for the assertion of the right of one nation to serve the other nations of the world—an emblem that will not condescend to be used for purposes of aggression and self-aggrandizement; that is too great to be debased by selfishness; that has vindicated its right to be honored by all nations of the world and feared by none who do righteousness.

"Is it not a proud thing to stand under such an emblem? Would it not be a pitiful thing ever to make apology and explanation of anything that we ever did under the leadership of

this flag carried in the van? Is it not a solemn responsibility laid upon us to lay aside bluster, and assume that much greater thing, the quietude of genuine power? So it seems to me that it is my privilege and right as the temporary representative of a great nation that does what it pleases with its own affairs, to say that we please to do justice and assert the rights of mankind wherever this flag is unfurled."

AUGUST, 1914

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DAVID I. NELKE, *Editor.*

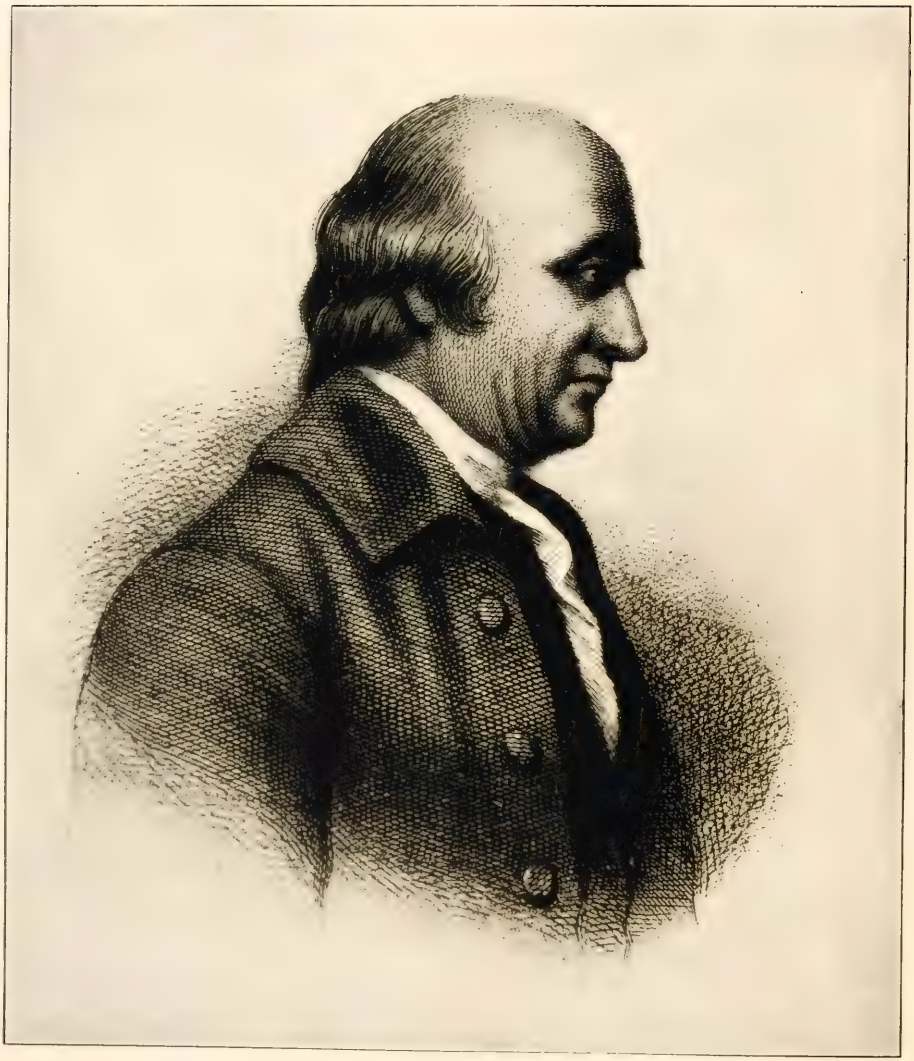
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Lewis Morris

AMERICANA

August, 1914

Bibographical Sketches of the Four Signers of the Declaration of Independence From New York

BY JOSIAH C. PUMPELLY, HISTORIAN, EMPIRE STATE SOCIETY, SONS OF THE AMERICAN REVOLUTION

Introduction

THE following sketches were written in a less extended form for the above Society under Resolution of the National Society, S. A. R., 1910, "recommending that each society in the thirteen original states have printed a memorial of the Signers of the Declaration of Independence from that state, such memorial, to be an octavo and including a concise and accurate account of the more significant events in the career of each signer, together with a bibliography, and possibly selections from some of their more notable utterances. Matters of ancestry and posterity should be briefly touched upon and the wives of the signers should receive due recognition.

The illustrations should include the most authentic portraits of the signers, with possibly those of their wives, where the latter are available, with fac-simile signatures. Views of their dwellings, birth places, graves and other notable structures or objects associated with the signers should be added. Fac-similes of significant letters might also be acceptable, but the number of illustrations should not much exceed five for each signer."

When these separate memorials are completed or at the end of some definite period a general volume including a fac-simile of the Declaration and views of Independence Hall, the Liberty Bell, exterior and interior views with function and other matters associated with the signers.

The Resolution then goes on to say, "We also favor the identification of as many as possible of the graves of those who gave form to that immortal document, though not appearing among the signers of it, Revolutionary officers and soldiers and the marking of their graves with the markers furnished by the Federal Government, this work to be done by the State Societies and reports made annually to the National Society.

We favor the restoration of structures intimately associated with the signers (or those who bore an active and prominent part in connection with the Declaration) as landmarks, and the utilization of the same where practicable for patriotic purposes."

The sketches are here published with the consent and approval of the Society of which the writer is the historian.

GENERAL LEWIS MORRIS

The first of the four signers from New York was General Lewis Morris, who was born at Morrisania, Westchester County, N. Y., April 8, 1726, where he died January 22, 1798. He was the eldest son of Hon. Lewis Morris, Judge of the High Court of Admirality, and Catharine Staats, his wife, and grandson of Hon. Lewis Morris, first Governor of New Jersey as a separate Province from New York, and his wife, Isabella Graham, daughter of Hon. James Graham, Attorney General of New York, and a descendant of the "Graham of the Isles." He was the eldest of four brothers, one of whom was a general officer in the British army and a member of parliament.

Morris graduated at Yale College in 1746, but not receiving both his bachelor and master degrees until 1790. He entered on the care of his large estate at Morrisania becoming a farmer on an extensive scale in the "golden days of the Colonies." He declared that the act requiring him to give additional supplies for the King's troops was tyrannical and unconstitutional and this action caused him to be chosen, after the battle of Lexington, a delegate to the provincial convention, held at the city of New York, April 22, 1775, *Lewis Morris,* Philip Livingston,

George Clinton, James Duane, John Alsop, Simon Boerum, William Floyd, John Jay, Henry Wisner, *Philip Schuyler,* Francis Lewis and Robert R. Livingston, Jr., "who, or any five of them," as the Commission reads, were entrusted with full power to "concert with the delegates from the other colonies and determine upon such measures as should be judged most effectual for the preservation and re-establishment of American rights and privileges, and for the restoration of harmony between Great Britain and the Colonies."

Lewis Morris, together with several of his colleagues, attended this congress, and on July 4th, 1776, he, together with William Floyd, Francis Lewis and Philip Livington, affixed their signatures to the Declaration of Independence in behalf of the State, and on the 9th of the same month, the Convention of New York, assembled at White Plains, unanimously ratified their action and sanctioned the measure.

Just before the signing, Lewis Morris received a letter from his brother, Staats Morris, a general in the British army, begging him not to take so rash a step and to think of the consequences. "Damn the consequences; give me the pen!" was the reply of the impulsive Morris. And it was at this time, and to Morris and others, that Franklin made his famous bon mot. "Gentlemen, in this matter we must all hang together, or else we shall all hang separately."

Morris knew then that the British fleet was lying within cannon shot of the Morris homestead and its 1,000 acres of woodland, and as was feared would be the case, his forests were burned and tenants dispersed so that they were compelled to flee from Morrisania and take refuge on lands that he owned in New Jersey. After the war General Morris returned and by degrees restored his estate to an orderly condition.

In 1777, he relinquished his seat as a representative in congress from New York and in the legislature of his state as a member of the Assembly and displayed undaunted spirit and untiring zeal, and while ably assisting in organizing and equipping the militia in which organization he rose to the rank of major-general. His wife, Mary Beekman Walton, was a woman of

marked ability, and high character. They had six sons and four daughters.

The Morris homestead stood on what is now the corner of 130th St. and Cypress Avenue, and near by was the home of Lewis Morris, the signer, and in St. Ann's Church, corner St. Ann's Avenue and 140th Street, Morrisania, there is a memorial window and several tablets in memory of the Morris Family, of Morrisania, on one of which appears this record:

"General Lewis Morris, eldest son of Hon. Lewis Morris and Catherine Staats, born at Morrisania, April 8, 1726, where he died, January 22, 1798. He served in the army of the Revolution as also did his three sons, Lewis, Jacob and William, and he was one of the Signers of the Declaration of Independence. And his wife was Mary Beekman Walton, who died March 11, 1794."

In the Morris High School at 166th St., Boston Avenue are two mural paintings; one represents the signing of a treaty of peace between the Dutch and Indians in 1642 at the house of Jonas Bronck and the other portrays Gouverneur Morris, a half brother of the Signer, as he appeared before the convention for framing the National Constitution.

This Jonas Bronck who died prior to 1643, owned all the 1920 acre tract of land called by its owner "Emmaus" and by the Indians "Ranachque" and 'twas this tract which by royal grant came into the possession of a certain Colonel Lewis Morris formerly an officer in Cromwell's Army and member of the Council of Barbados in 1654, where he owned a large estate, and from him it went to his nephew, Lewis Morris, first lord by royal patent, of Morrisania and later on the first native born chief justice of New York.

The Pennsylvania and Maryland Morrises are not related to the Morrisania family, but the celebrated loyalist, Col. Roger Morris, was unquestionably of the same original Welsh stock as the Morrisania Morrises vide the arms, which are the same, not even varying as to tinctures, "gules a lion rampant regardant or," though naturally the quartering and crest differed. It is a curious historical circumstance that two such conspicuous families, descending from the same ancient Welsh

progenitor, though with no immediate ties of blood, of equal social consideration, though totally different political principles, appeared together in the same country at a critical period of American history in which both were destined to play a notable part.

In 1746 Judge Lewis Morris inherited the property and on his death his two sons the portion west of Mill Brook going to General Lewis Morris, the subject of this sketch, while the Eastern part went to Staats Long Morris, his brother (b. in Morrisania Aug. 27, 1728; d. in 1900), afterward a Lieut. Gen'l. in the British Army and Governor of the Province of Quebec.

This tract was purchase by Gouverneur Morris, half brother of Lewis, the Signer, who was senator and minister to France, 1792 to 1794 and whose son, Gouverneur, years after, on July 17, 1841, erected St. Ann's Church in memory of his mother, Ann Carey Randolph. She was a daughter of Thomas Randolph of Roanoke, Virginia, seventh in descent from the Indian princess Pocahontas. Her body is interred under the Church while her husband's is in his son's vault in the grounds.

In the vaults beneath St. Ann's Church repose the remains of many distinguished patriots both men and women, including General Anthony Wayne's aide-de-camp, Captain William Walton Morris, Judge Robert Hunter Morris of the Supreme Court and thrice Mayor of New York City, Major-General William Walton Morris, a hero of the Florida, Mexican and Civil War, Col. Lewis Gouverneur Morris, member of the Westchester War Committee in 1861, Captain John Pine Morris, who did heroic service in the taking of Port Hudson and Lieut. Gouverneur Morris, U. S. Marine Corps.

Lewis Morris' eldest son, Col. Lewis, was graduated at Princeton in 1774, entered the army and served as aide to General John Sullivan with the rank of major throughout the latter's Indian campaign. He was also attached to General Nathaniel Greene's military family and took part in his brilliant operations in the Carolinas and at their close he received the thanks of Congress and a colonel's commission.

Another son, Richard Valentine, was appointed captain in the navy in June, 1798, and was in command of the Mediterranean squadron in 1802-3; died in New York City, May, 1815.

Gouverneur Morris, the signer's half brother, his mother having been Sarah Gouverneur, was born in Morrisania, N. Y., Jan. 31, 1752, died there Nov. 6, 1816, was graduated at King's College in 1768, was admitted to the bar in 1771, was a delegate to the 1st Provincial Congress in 1775 and early attracted attention by a report and speech on the mode of issuing a paper currency by the Continental Congress, the chief suggestions of which that body subsequently adopted. He served on the Committee that drafted the State Constitution in 1776 and the following year took the seat of his half-brother, Lewis, in the Continental Congress which he held until 1780.

He served as one of a Committee appointed by Continental Congress to visit our army in its winter quarters at Valley Forge and examine into the condition of the troops.

He was also chairman of a Committee of five in 1779 who examined dispatches from our commissioners in Europe and its report formed the basis of the treaty of peace.

In 1780 he published several essays signed "An American," on the state of the national finances then at their lowest ebb. On account of a severe accident received from being thrown from his carriage, he had his leg amputated and for the rest of his life wore a wooden leg, which once proved valuable to him. While driving through the streets of Paris during the French Revolution he was assailed by the mob with the cries of "Aristocrat." He turned the taunts into cheers by thrusting his wooden leg out of the window and shouting "An aristocrat! Yes, one who lost his limb in the cause of American liberty!"

When Robert Morris was placed at the head of the finances of the nation his first act was to appoint Gouverneur Morris his assistant, which place the latter occupied for three and a half years.

In 1789, on the death of his mother Gouverneur Morris purchased from his brother, Staats Long Morris, the Morrisania estate which he henceforth made his home.

He was a delegate on the Convention of 1787 at Philadelphia that framed the Constitution of the United States, the draft of that instrument being placed in his hands for final revision be-

cause of his acknowledged superiority in the use of the English language.

December 18, 1788, Morris went to Paris and in 1791 to England, as confidential agent appointed by Washington to negotiate with the British government regarding certain unfulfilled articles of the treaty of peace and while there was made United States Minister to France. In 1794 he was succeeded by James Munroe and afterward while at Minna he used strenuous efforts to obtain the release of Lafayette from his confinement in the fortress of Olmutz in Moravia.

In 1798 he was elected to the United States Senate from New York and there favored the discontinuance of direct taxation and the purchase of Louisiana. He advocated New York's great canal project as proposed by Clinton and acted as chairman of the board of canal commissioners from their first appointment in 1810 until his death.

James Renwick in his "Life of Clinton" says: "Morris was endowed by nature with all the attributes necessary to the accomplished orator and a fine and commanding person, a most graceful demeanor which was rather heightened than impaired by the loss of one of his legs and a voice of much compass, strength and richness." In person he so closely resembled Washington that he stood as a model of his figure to Houdon the sculptor and he also bore a striking resemblance to Louis Sixteenth of France. When on his deathbed he said: "Sixty-five years ago it pleased the Almighty to call me into existence here on this spot in this very room, and how shall I complain that He is pleased to call me hence."

He was the author of many essays and addresses and political satires.

Jacob Morris, second son of the Signer, soldier and grandfather of Mrs. Hamilton Fish, Sr., was born in Morrisania, Dec. 28, 1755; died in Butternuts, now Morris, Otsego Co., N. Y., January 10, 1844. He was appointed aide-de-camp to General Charles Lee and served with credit at Fort Moultrie and in many other engagements; was also on General Greene's staff. After the war he served in both the Assembly and Senate of the New York legislature. He had the rank of general of militia. As

partial compensation to his father, Lewis Morris, the Signer, and his Uncle, Judge Richard Morris, for losses sustained by them in the Revolution, the State of New York granted them a tract of thirty thousand acres in what was then Montgomery County, N. Y. Thither General Jacob Morris removed in 1787, and became the pioneer in the development of that region. He is the only one of the three sons of the Signer, who fought with him in the Revolution, who does not lie beside him at Morrisania. Late in life he married a second time and had one son, William Augustus Pringle Morris, who is probably the only living grandson of one of the N. Y. Signers.

In concluding this record of the Morris family, so intimately connected with the history of the county of Westchester, it is not inappropriate to recall the fact that the spirit of patriotism and loyalty to one's country did not terminate with the older generations. General William Walton Morris, a grandson of General Lewis Morris, one of the Signers of the Declaration of Independence, not only saw active service in the Seminole and Mexican wars, in the latter of which he was promoted for gallantry in the field, at the Battles of Palo Alto and Resacade la Palma, but served throughout the Civil War, dying at its close in command of an army corps, and like his grandfather, with his three sons all in the army and navy. One of them Major Arthur Morris, of the 4th Artillery, U. S. A., served with the Second Army Corps, of the Army of the Potomac all through the Peninsular campaign, and was wounded at the battle of Antietam, where his Battery was so hotly engaged that its Captain was killed and half its men sacrificed, and for this Lieutenant Morris was rewarded by the brevet rank of Captain, when only nineteen years of age. In the second volume of Bolton's History of the County of Westchester, page 500, there is this mention of General Wm. Walton Morris.

"In St. Ann's Churchyard repose the remains of Major General W. W. Morris, U. S. A., a member of the Morris family, whom it will be remembered, was the first military officer who, during the late Civil War, refused to obey a writ of *habeas corpus*, while in command of Fort McHenry, at Baltimore, Md. At first public indignation was aroused against him, and it was

at one time proposed by the Government to deprive him of his commission. Upon sober second thought the Government concluded that his act, though high handed, was justified by the emergency. Following is the correspondence upon the subject:

Headquarters, Fort McHenry, Md.
May 8th, 1861.

Colonel:—I wish most respectfully to inform the Lieutenant-General commanding, that during the past week a writ of Habeas Corpus was issued by the Hon. Judge Giles, of the United States District Court, for the District of Maryland, commanding me to produce the body of John G. Mullen, a recruit of the United States army, on the alleged ground that said Mullen was a minor at the time of his enlistment.

I have the honor to enclose an article from the Baltimore Sun (No. 1), a copy of my letter to Judge Gile (No. 2) and a copy of the judge's reply (No. 3), which will afford the Lieutenant-General all the knowledge of the subject which I possess.

I respectfully request that the Lieutenant-General will furnish me with the laws and orders now in force with reference to the discharge of soldiers enlisted as minors.

Very respectfully your obedient servant,

(Signed), W. W. Morris,
Major 4th Artillery,
Commanding.

Asst. Adjt. Gen.,
Headquarters of the Army,
Washington City.

From the Baltimore Sun of Monday, May 6, 1861.

(Local Matters.)

The Habeas Corpus Refusal.—On Saturday it was stated that a *Habeas Corpus*, issued by Judge Giles of the United States Court for the surrender of the body of John G. Mullen, has been refused by the commandant of Fort McHenry. On Saturday Judge Giles issued the following order to be entered on the record of the Court. After quoting the title of the case he says: "In this case a petition was presented to me, in the usual form, stating that John G. Mullen was illegally detained at Fort Mc Henry in this city, by the officer commanding at that fort; that the said John G. Mullen was only twenty years of age, and had been enlisted without the consent of his father, George Mullen, who united in the petition, and made affidavit to the truth of the

facts stated therein; and the petition closed with the prayer for the writ of *habeas corpus*. In the discharge of the duty required of me by the laws of the United States, upon the presentation of such a petition, I ordered the writ of *habeas corpus* to be issued, to be directed to the commanding officer at Fort McHenry, commanding him to produce before me, at ten o'clock this morning, in the District Court-room in this city, the body of said John G. Mullen, with the cause of his confinement, at the hour mentioned for the return of the said writ. The deputy marshal who was sent down to serve the writ, filed in this court this morning an affidavit, stating that it had been served on an officer in command of said fort, and who refused to obey said writ.

This is the first time within my experience of thirty-three years at the bar and on the bench that the writ of *habeas corpus* has failed in this state to procure obedience to its mandate. It is a writ so dear to every freeman that the Constitution of the country has, with great care, provided 'that it shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.' With no suspension of this writ by competent authority, with no proclamation for its suspension, the court learns, with deep regret, that an officer of the United States Army has thought it his duty to refuse obedience to the writ. Unwilling to aggravate existing excitement by more immediate action, the court will at present only pass an order that the commanding officer at Fort McHenry show cause on or before Wednesday next, the 8th inst. at ten o'clock, why, an attachment should not issue against him for his refusal to obey the said writ, and the court sincerely hopes that, in a crisis like the present, wiser counsels may prevail at the post, and that no unnecessary conflict of authority may be brought in between those owing allegiance to the same government and bound by the same laws."

Fort McHenry, Maryland,
Monday, May 6, 1861.

Hon. William Fell Giles, Judge of the U. S. District Court for the District of Maryland.

Sir:—My attention has been directed to an article in the local column of the *Baltimore Sun* of this date, headed, "The *Habeas Corpus* Refusal." Presuming that that article is authentic, I wish very respectfully to submit for your consideration the following remarks on this unhappy "conflict of authority between those owing allegiance to the same Government, and bound by the same laws."

To avoid implicating parties in no wise connected with this case, permit me to observe at the threshold that my action in the premises was taken entirely on my own responsibility, without instructions from, or consultation with any person whatever.

And now I wish most respectfully to inform your Honor, that I regard the writ of *Habeas Corpus* as the very basis of free government, and that under all ordinary circumstances I am very ready to acknowledge the supremacy of the civil authorities. But, as you admit, the constitution of the United States has provided that this writ of *Habeas Corpus* may be suspended in case of rebellion, if the public safety require it. You, however, allege that there is no such state of affairs existing as would authorize its suspension. On this point it is with regret that I am compelled to differ from so eminent an authority; and I am further constrained to add, that the question is one of fact, rather than opinion.

At the date of issuing your writ, and for two weeks previous, the city in which you live, and where your court has been held, was entirely under the control of revolutionary authorities; within that period U. S. soldiers, while committing no offence, had been perfidiously attacked and inhumanly murdered in your streets; no punishment had been awarded, and I believe no arrests had been made for these atrocious crimes; supplies of provisions intended for this garrison had been stopped; the intention to capture this fort had been boldly proclaimed; your most public thoroughfares were daily patrolled by large numbers of troops, armed and clothed, at least in part, with articles stolen from the United States; and the Federal flag, while waving over the Federal offices, was cut down by some person wearing the uniform of a Maryland soldier. To add to the foregoing, an assemblage elected in defiance of law, but claiming to be the legislative body of your State and so recognized by the Executive of Maryland, was debating the forms of abrogating the Federal compact. If all this be not rebellion, I know not what to call it. I certainly regard it, as sufficient legal cause for suspending the writ of *Habeas Corpus*.

Besides, there were certain grounds of expediency on which I declined obeying your mandate.

1st. The writ of *Habeas Corpus*, in the hands of an unfriendly power, might depopulate this fortification and place it at the mercy of a "Baltimore mob," in much less time than it could be done by all the appliances of modern warfare.

2nd. The ferocious spirit exhibited by your community towards the United States army, would render me very averse from appearing publicly and unprotected in the City of Balti-

more, to defend the interests of the body to which I belong. A few days since, a soldier of this command, while outside the walls, was attacked by a fiend or fiends in human shape, almost deprived of life, and left unprotected about half a mile from garrison. He was found in this situation and brought in covered with blood. One of your evening prints was quite jocose over the laughable occurrence.

And now, sir, permit me to say in conclusion, that no one can regret more than I this conflict between the civil and military authorities. If, in an experience of thirty-three years you have never before known the writ of *Habeas Corpus* to be disobeyed, it is only because such a contingency in political affairs as the present has not before arisen. I claim to be a loyal citizen, and I hope my former conduct, both official and private, will justify this pretension. In any condition of affairs except that of civil war, I would cheerfully obey your order; and as soon as the present excitement shall pass away I will hold myself ready not only to produce the soldier, but also to appear in person to answer to my own conduct; but in the existing state of sentiment in the city of Baltimore, I think it your duty to sustain the federal military, and to strengthen their hands instead of endeavoring to strike them down. I have the honor to be very respectfully,

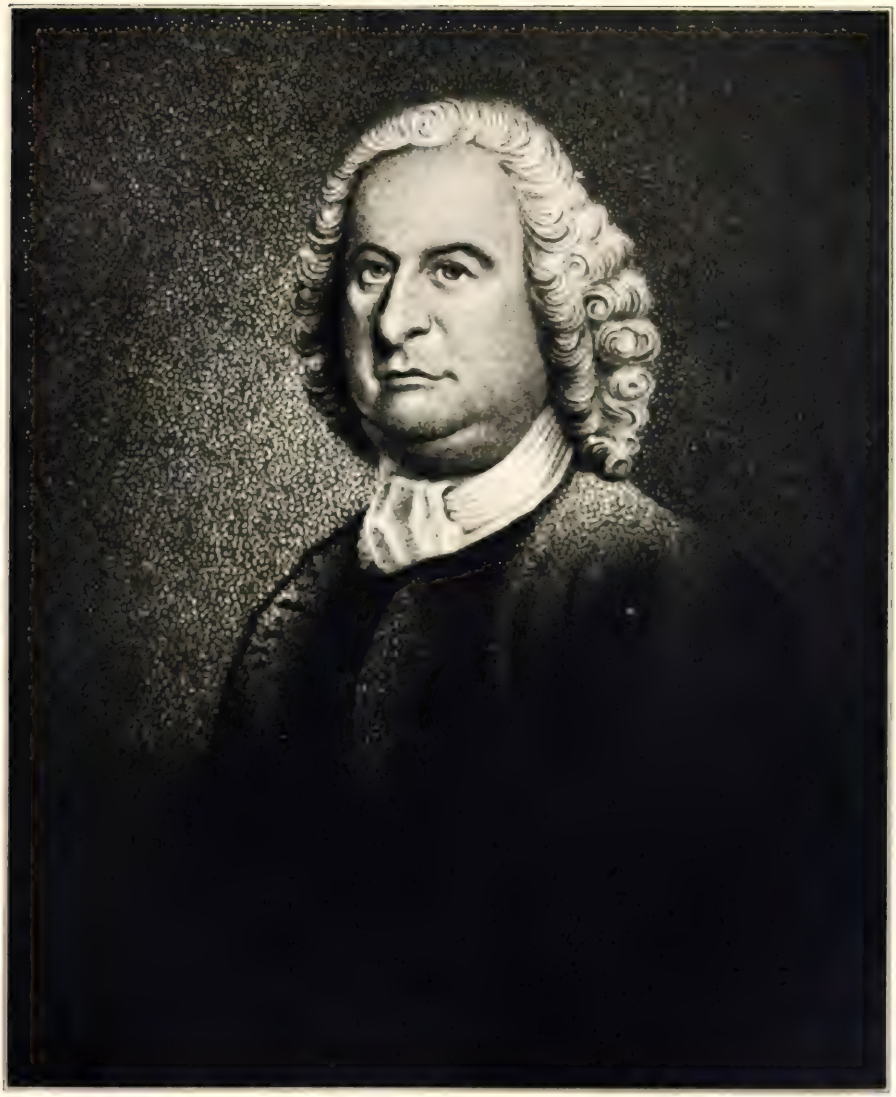
Your obedient servant,

(Signed) W. W. Morris,
Major 4th U. S. Artillery,
Com'd'g the Post.

That the conduct of General Morris in this case, at the beginning of the Civil War, met the approval of the authorities in Washington, there is no doubt as he was promoted rapidly afterward; first as Colonel of the Second Artillery, then Brigadier General, and, finally Brevet Major General. He was an ideal soldier and a classmate at West Point of General Robert Lee whom he strongly resembled in appearance.

The following interesting item about St. Ann's Church was sent me by Mrs. Estelle Morris Carnochan (Mrs. J. M.) a direct descendant of the "Signer" to whom the writer desires to here express his most grateful appreciation and thanks for valuable assistance rendered in the preparation of this article:

"On November 21, 1907, there was unveiled in memory of the Morris family, about whom the history of St. Ann's of Morrisania centers so largely, a very beautiful tablet on which are



PHILIP LIVINGSTON

recorded some of the names of those who are interred in what is known at the church as 'the Signer's vault,' a large one under the altar now permanently closed. And on October 19, 1913, a tablet to the memory of Mary Walton Morris, wife of Gen. Lewis Morris, the Signer, was placed on the outside of St. Ann's, in front, by the New York Colonial Chapter of the Daughters of the Revolution, a very appropriate address being delivered on the occasion by the Right Rev. Theodore Payne Thurston, D. D., Bishop of Eastern Oklahoma."

PHILIP LIVINGSTON

Philip Livingstone, another of the four Signers of the Declaration of Independence from New York, born January 15th, 1716, at Albany, N. Y., was a member of a family which has been long distinguished in the State of New York. As to the origin of the name Brockholst Livingston in his family history says:

"The surname of Livingston is derived from the name of the Saxon thane, the founder of the family, one Living or Leving in conjunction with his lands, a dwelling place which in charters of the 12th Century is written in the Monkish Latin "Villa Living," or in vernacular Saxon "Livingston." The date of Living's settlement in Scotland cannot now be ascertained. Few families can show such an authentic and ancient origin."

Philip was the fifth in a family of eleven children, his parents being Philip the 2nd, Lord of the Manor, whose wife was Catherine, daughter of Peter Van Brugh and Sarah Cuyler.

He graduated from Yale in 1737 and history tells us he "was one of the fifteen persons in the colony who possessed a collegiate education." After graduation he entered into business as an importer in New York City and from that time and through his whole life he was devoted to advancing the best interests of this city. Of him, as a merchant, Sir Charles Hardy said in 1755: "No one is more esteemed for energy, promptness, honesty and public spirit, than Philip Livingston." He was elected a member of the Board of Aldermen and served that body with honor for nine years.

As a member of the Provincial Assembly, in 1759, he opposed

every arbitrary measure of the English Government, and it was from him that Edmund Burke, then agent for the Colonies, obtained that great knowledge of our affairs which enabled him to speak so forcefully on the question of taxation without representation.

His letter in 1764 to Lieut. Gov. Colden shows this patriot's faithful adherence to his convictions. "We hope," he says, "your honour will join with us in an endeavor to secure that great badge of English liberty of being taxed only with our own consent, to which we conceive all his majesty's subjects at home and abroad equally entitled to." (Vol. III, Signers of the Declaration of Independence, 1823).

He was chosen a member of the first Continental Congress in 1774 and held a seat in that body up to the day of his death.

At its first convention he was put on a committee to prepare an address to the people of Great Britain and of the State papers sent forth by that remarkable assemblage of Americans we note that Lossing in his history of the Signers says, these papers so impressed Lord Chatham (William Pitt), that he said on the floor of Parliament:

"I must declare and aver that in all my reading and I have read Thucydides and admired the master spirits of the world for solidity of reasoning, force of sagacity and wisdom of conclusion, under such a complication of circumstances, no nation or body of men can stand in preference to the General Congress in Philadelphia!"

This constructive patriot was rightly called "The Princely Livingston," for his principle of conduct was clearly shown by his declaration: "I must blot out all desires for the sake of the public good."

And 'twas in this spirit that having been duly appointed a delegate, he, on August 2, 1776, signed his name to the Declaraiton of Independence, which had been adopted by Congress on July 4th. He, with those other fifty-five members of Congress and delegates who discussed and signed this paper which was to commit them to death as rebels or to immortality as patriots, formed a group of councillors which Gladstone declared "Unequalled in the history of the world."

Bancroft tells us they were "superior statesmen, none of them passionate revolutionists but men who joined the power of moderation to energy."

And this great paper speaks clearly the character of the signers as well as the circumstances of the times in which it was written and in it the genius of the new Republic was voiced as it was eleven years later by the men who framed that greatest among Constitutions, "holding its heart," as Woodrow Wilson words it, "clear cut, unmistakable conceptions of what a government of freemen ought to be."

How fitting it was that a man of Philip Livingston's characteristics should have been one of these brave compatriots, for it was this great document that rallied and united the friends of liberty in the war for independence, braced them for their mighty task and has since then exercised a mighty influence upon the political character of our own people as well as upon other people, who are struggling for their liberties.

It must be here carefully noted that while Rhode Island had on May 4th declared for independence, so also had Virginia and Connecticut on June 14th, New Jersey on the 21st and Pennsylvania on the 28th. New York on the 14th only declared her purpose but waited for full authority of her people which did not come until July 9th. However, on July 2d, twelve colonies signed and as John Adams wrote: "the greatest question was decided which was ever debated in America and greater, perhaps, never was nor ever will be decided among men. It is the will of Heaven the two countries should be sundered forever."

They were strong God respecting men those fifty-six signers. "Rich in individuality of character," says Frothingham in his "Rise of the Republic," "men whose political ideas had an anchorage in morals, law, order and religion and they acted upon principle to a degree, unparalleled in the examples of collective public virtue."

There were two other members of the Livingston family, who were elected to the 2d Continental Congress in 1775, one was Robert R. Livingston, of Clermont, who was one of the Committee of five, appointed to draft the Declaration of Independence,

whose necessary absence from Congress prevented his signing it. He was a member of the convention of New York which adopted the national constitution and voted for it; was Secretary of Foreign Affairs, 1st Chancellor of the State of New York, minister plenipotentiary to France, negotiator of the Louisiana Purchase, and coadjutor of Fulton in perfecting the system of steam navigation and the other was William Livingston, the well known governor of New Jersey, the youngest brother of the Signer.

Philip Livingston was devoted not only to national but the civic interests in his own city. He was one of the founders of the New York Society Library in 1754 and of the Chamber of Commerce in 1770; of the first governors of the New York hospital chartered in 1771, and one of the earliest advocates of the establishment of Kings College, now Columbia University. In 1746 he aided in founding the professorship of divinity that bears his name in Yale and was one of the contributors to the building of the first Methodist Church in the United States.

He had a beautifully furnished mansion on Hicks St., Brooklyn Heights, overlooking the harbor, and it was here Washington during the Revolution held the Council of war that decided on the retreat from Long Island and the mansion was afterward used by the British as a hospital.

May 5, 1778, Livingston took his seat in Congress, then sitting in York, Pennsylvania, the British having then taken possession of Philadelphia and it was at this time he sold a part of his property with which to sustain the credit of the federal treasury and with a full presentiment of approaching death, he did not hesitate to devote the last days of his illustrious life to the service of his country, then undeveloped in the thickest gloom of adversity.

He died at York of dropsy of the chest on June 12, 1778, in the 63d year of his age, and with him at the time there was no member of his family excepting his son, Henry, a youth of 18 years, then one of Washington's family at Valley Forge, and 1st Lieutenant of his bodyguard and to become its Captain on Dec. 1. Over the Signer's grave in York a monument was erected by his

grandson, Stephen van Rensselaer and his body has never, though some have said to the contrary, been removed to New York. I am informed by John Henry Livingston of Clermont, that the grave in Trinity Church burying ground probably is that of Philip Livingston's nephew, the son of Peter Van Brugh Livingston.

Philip Livingston married April 14, 1740, Christina, third daughter of Col. Dirck Ten Broeck, Mayor of Albany, born Jan. 1, 1719, and who survived her husband. They had a family of five sons and four daughters, one of whom married Rev. John H. Livingston, and another married Patroon Stephen Van Rensselaer.

Sanderson, in his sketch of the life of Philip Livingston, published in 1823, says:

"In temper Mr. Livingston was somewhat irritable, yet exceedingly mild, tender and affectionate to his family and friends. There was a dignity, with a mixture of austerity in his deportment which rendered it difficult for strangers to approach him. He was silent and reserved and seldom indulged with much freedom in conversation. Fond of reading and endowed with a solid and discriminating understanding, his mind was replenished with various extensive and useful knowledge. He also possessed in extraordinary degree an intuitive perception of character."

In the magazine of American History, Vol. I, we note these words by your former compatriot, Ethan Allen, about Philip Livingston: "He was born for a generation that needed him, particularly for that unswerving and unpurchasable fidelity which illustrated his life more than did any aggressive force of character. He was a faithful and firm patriot, a cool and sagacious representative and generous and unselfish citizen, an avowed and tried Christian and an honored and an honest man. The labors of himself and his associates in the cause of independence demand and receive our grateful homage. For the grand results of their lives see the progress—for their epitaphs read the annals—of the Republic. The nation stands today at once their monument and their eulogy."

To the writer of the annexed letter the author extends his

grateful acknowledgments not only for his cordial words, but for two valuable photographs.

Clermont, Tivoli on Hudson,
Aug. 11, 1914.

Josiah C. Pumpelly, Esq.

Dear Sir:—With great pleasure I have read your MS. of the proposed sketch of the life of my great-great-grandfather, Philip Livingston, one of the Signers of the Declaration of Independence. I find it correct and am sure it will be of great interest to all who care for the early history of our country.

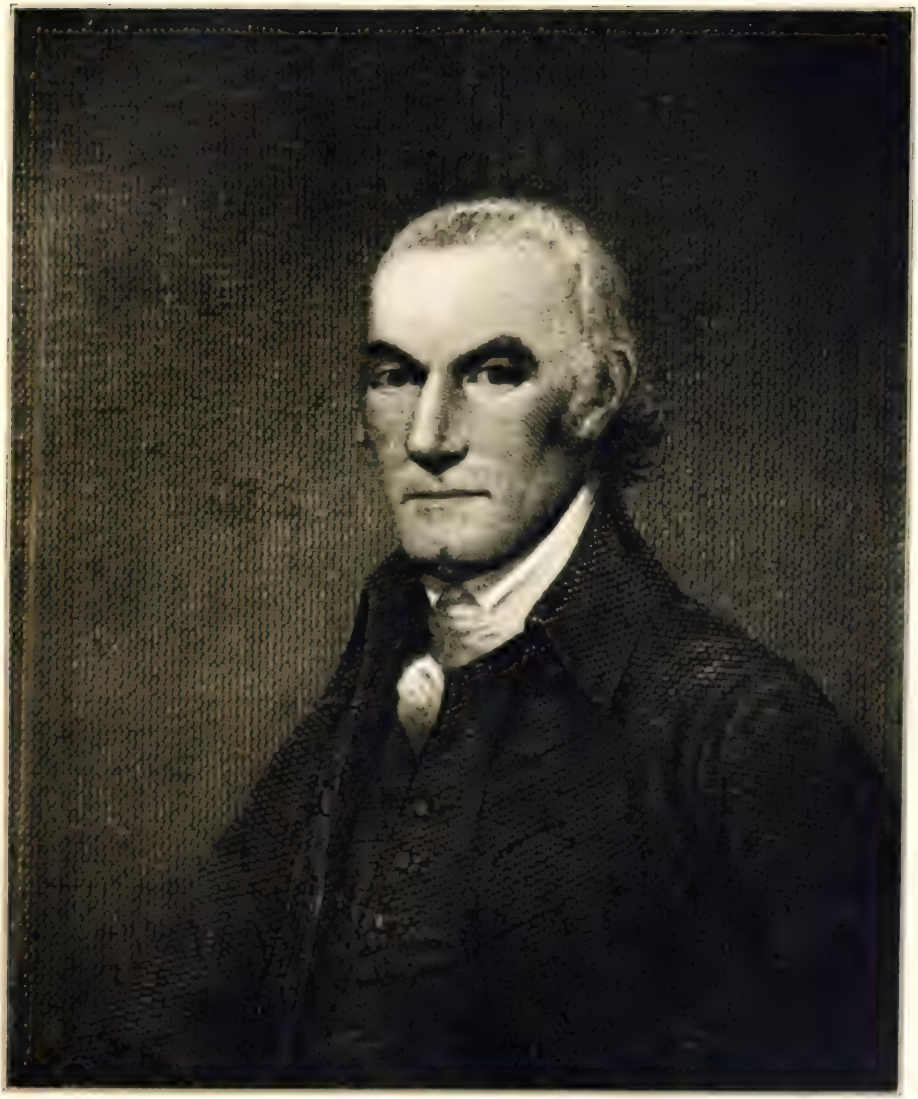
Thanking you for the pains you have taken with this sketch, I am

Very cordially yours,
JOHN HENRY LIVINGSTON.

GENERAL WILLIAM FLOYD

In an old record written by the son of the Signer, and now in the possession of William Floyd of New York, we read that, General William Floyd "was a descendant of Richard Floyd who came to this country with Susannah, his wife, about the year 1650, from Brecknockshire in Wales. They came first to Massachusetts and afterward settled at Setauket on the north side of Long Island. The son of Richard, the first settler, was Col. Richard Floyd, (born May 12th, 1665), who married Margaret Nicoll, (born May 30th, 1662) a daughter of Matthias Nicoll, Secretary of the Province of New York and afterward Mayor of the city. Nicoll Floyd the son of Col. Richard Floyd, was born August 27th, died March 8th, 1755, and is buried at Mastic. He married Tabitha Smith, (born 1704) a daughter of Col. Jonathan Smith. He settled early in life at Mastic on the south side of Long Island, and here his son William Floyd was born on December 17, 1734.

He received the usual education given in those times to farmers' sons; but his strong common sense, natural shrewdness and close observation supplemented his education and safely



WILLIAM FLOYD

carried him through the many important roles he was destined to play in life's journey, while at the beginning of his career the influence of his family name gave him of itself an excellent position of influence in the community. He early developed many admirable traits, became an adept at farming and a prudent man in worldly affairs. Of strong religious convictions, he took a deep interest in the spiritual welfare of the people among whom he lived, and he implicitly believed that the practice of the Congregational Church formed the only true model upon which upright and honored civil government could be founded. He was a close student of public affairs, a keen and logical observer of the trend of the events of the day, and was outspoken and pronounced in his advocacy of the people's rights when the crisis with the mother country was approaching. Early in life he was chosen as an officer in the Suffolk county militia; he was Colonel of the First Suffolk Regiment in 1775, and after the war was over he was commissioned a Major General, but his military career, to put it mildly, was a most evenly uninteresting one, its most startling incident being a hurried call to prevent a small boat landing on Long Island early in the conflict with Britain. His talents were better fitted for the halls of legislation than for the tented field. After a short service in the Provincial Assembly he was sent as a delegate, in 1774, to the first Continental Congress, and was one of those who from the beginning was in favor of the independence of the colonies. He voted for the adoption of the Declaration of Independence and signed that document—his great claim to immortality. From 1777 till 1783, he was State Senator under the first Constitution of New York, being regularly appointed by that body for the Southern District, then wholly within the British lines, so that no election could be held. When the British made their first descent on Long Island Floyd headed a body of militia and drove them off, but during the enemy's occupation of the island later on Genl. Floyd's property was seized and his family fled and found refuge in Middletown, Connecticut. The property was completely stripped by the soldiers, fields were desolated, trees uprooted and fences burned, and the house itself was used as a barracks for cavalry and was

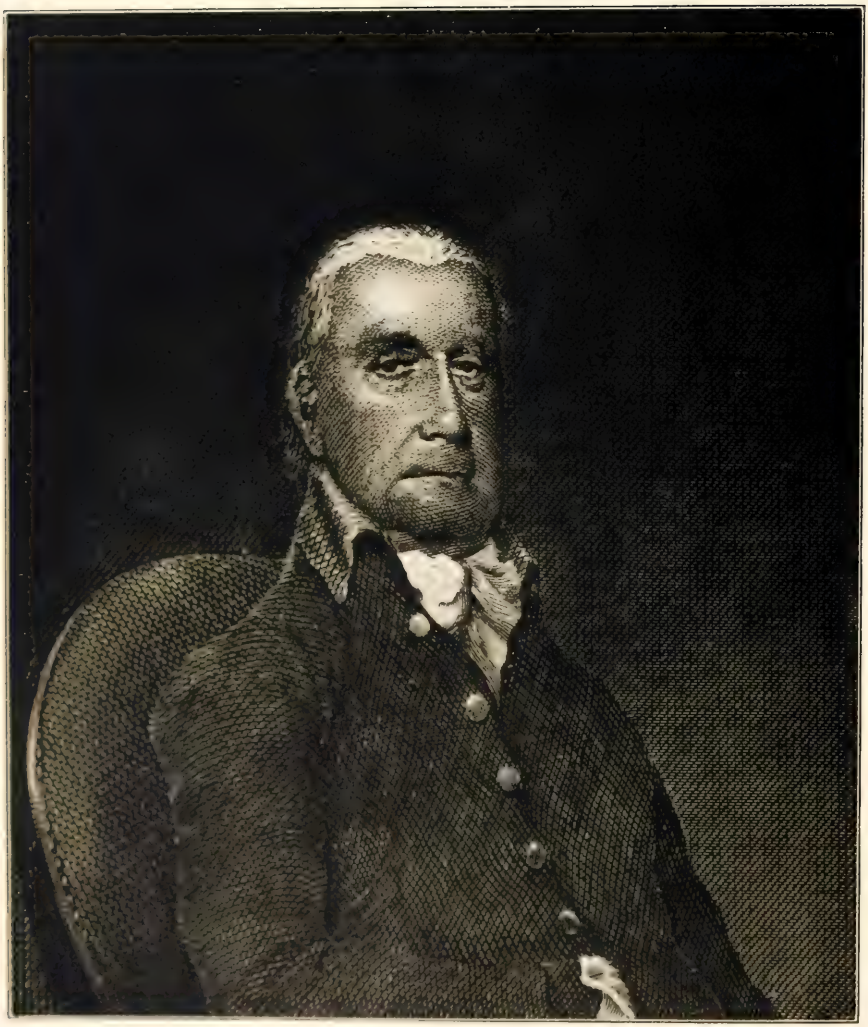
plundered and rendered uninhabitable. He was absent from the island for some six years, and was amazed, on his return, at the havoc which was wrought and which was everywhere apparent.

From 1784 till 1788 he was duly elected to the same office from the same district. In 1787 and 1789 he was chosen a member of the Council of Appointment. In the Presidential elections of 1792, 1800 and 1804 he was chosen one of the Presidential Electors and gave his vote for Jefferson, of whom he was a great admirer, and in 1801 he sat for Suffolk County in the Constitutional Convention. His education being only that of the country schools of his youth, he was not a speaker, nor orator, nor an accomplished writer; but in the work of the different bodies in which he served he was noted for his assiduity, sound advice, unflagging industry and thorough knowledge of the business brought before them. He was eminently a practical man, and his firmness and resolution were very great. Although somewhat unpolished in manner, he at the same time possessed a natural gravity and dignity which made itself felt.

He was an honorary member of the Society of the Cincinnati. "Probably no family on Long Island," says the historian, Ross, "has contributed such a succession in each generation of men eminent in the community as that of the Floyds." And General Floyd was especially respected for his prudence in business, his strong religious convictions, his ability as a student of public affairs, and his great sacrifices for his country.

In 1784 he purchased a tract of land in Oneida County, Western New York, to which he removed with his family in 1803. Floyd township was named after him. Here in fairly affluent circumstances he resided until his death, Aug. 4, 1821.

General Floyd was twice married. By his first wife, Isabella, a daughter of William Jones, of Southampton, he had three children,—Nicol, Mary and Catharine. The son took possession of the property at Mastic, became active in local affairs and was chosen a representative from Suffolk County in the New York Assembly in 1779, 1800 and 1801; Mary married Colonel Benjamin Tallmadge, one of the heroes of the Revolution; Catherine, was induced, against her will, to engage herself to Mr.



FRANCIS LEWIS

Madison, afterward President of the United States, but finally succeeded in breaking the engagement and married Dr. Samuel Clarkson of Philadelphia, instead. The ceremony took place at Mastic. While she was engaged to Mr. Madison she had her miniature painted for him, which the rejected lover later returned to her father, and General Floyd, in handing it to his daughter said sternly: "Take care, Miss, to whom you give this." Rives, in his "Life and Times of Madison," alludes to this engagement in a letter from Jefferson to Madison, and it is an interesting coincidence as told by Rives in his "Life and Times of Madison" that Catharine's sister Mary who was also handsome and attractive was at one time engaged to Jefferson himself.

General Floyd's second wife was Joanna, daughter of Benijah Strong of Setauket, and by her he had two daughters, Anna and Eliza.

The first married, first, George Clinton, a son of Vice-President Clinton, and after his death, married second, Abraham Varick, a New York merchant, while Eliza married James Platt of Utica, New York.

General Floyd's second wife was born in 1747, died at their farm in Floyd, New York, and her remains lie beside those of her husband in the cemetery of Westernville, near Floyd, and over their graves his family have erected a dignified and handsome monument, a picture of which was sent to me by his direct descendant, Mrs. Elizabeth Floyd Sicard.

FRANCIS LEWIS

Francis Lewis, the fourth Signer, was born in Llandaff, Glamorganshire, South Wales, in 1713. His father was the rector of the parish, his mother was the daughter of the Rev. Dr. Pettingal, a clergyman of the Established Church, and settled at Caernaroon. He was left an orphan at five years of age. His uncle, the Dean of St. Paul's of London, took charge of his education and sent him to Westminster where he gained not only a good English education but some knowledge of Greek and Latin and later apprenticed him to a merchant in London, where

he became well qualified for the business in which in after life he took so high a place.

When hunting in the Highlands, he acquired the Gaelic speech and a dislike of the English government, his Scotch home being the centre of political disaffection.

"Even before reaching manhood's estate," said Lewis, "I was, without knowing it, a rebel against the British administration," and thus it was very natural that, years afterward, he was one of the first men in the American Colonies to oppose English aggression and was one of the organizers of the famous "Sons of Liberty."

At the age of 21 he turned his patrimony into merchandise and embarked for New York, where he immediately took a partner and established two houses, one in Philadelphia, and one in New York.

Edward Annesley, a Welshman, a member of the family of which the Earl of Anglesey was the head, was his partner, and it was Elizabeth, a sister of this partner, who a little later became Lewis's wife.

When in business in New York, during the severe winter of 1742-3, he drove a horse and sled upon the ice from near Hurlgate, through the Sound, to Cape Cod. He traveled extensively in Europe, and was twice shipwrecked on the coast of Ireland; was agent for the British American Colonies in the French-Canadian War of 1753, and was at Oswego alluding to the supplying of clothing to the British army when Montcalm advanced upon the place with a body of French Canadians and Indians, Lewis who had long been intimate with General Mercer, the commander of the fort remained with him as his aid and he stood by his side when he was killed, the garrison of one thousand six hundred men surrendered.

Of the thirty prisoners allowed his Indians allies by Montcalm as their share of the bounty Lewis was one. At the close of each day as their retreat northward the Indians would feast and celebrate their victory by the sacrifice of a captive. Lewis saw the bloody rite repeated often and saw his fate approaching. Two warriors were selected for his guard, his arms only being bound, he being able to walk unshackled. The Indians

talked together in a Gaelic dialect and he understood and it was easy for him to join in their conversation. They finding there was the tie of a common language between them, he was no longer a prisoner and was treated as a friend and brother and they conducted him to Montreal and recommended to the Governor that he might be permitted to return at once to his home. This however was not granted and he was sent to France as a cartel and exchanged.

Lewis found out afterwards that these friendly Indians were from the far west, their members were few and they were seldom seen on the Atlantic coast.

Julia Delafield in her book on Francis and Morgan Lewis, says her grandfather told her this story just as he had heard his father Governor Lewis tell it himself.

After being exchanged Lewis returned to America where the Colonial government presented him with five thousand acres of land in acknowledgment of his services.

He retired from commercial pursuits with an ample fortune, moved his family to Whitestone, Long Island, and there determined to give the rest of his life to the service of his adopted country.

The Stamp Act of 1765, passed by Parliament and signed by the King, then on the verge of his first attack of lunacy, was the real commencement of our War for Independence, and "The trumpet then sounded that never calls retreat." And in opposition to this Act, as member of the New York Committee, is the name of Francis Lewis who forever afterward was a consistant and energetic opponent of the Mother Country.

William Smith and William Livingston, son of Philip, second Lord of the Manor, had organized an association composed of gentlemen of tried courage and patriotism who took the name of the Sons of Liberty and Lewis was one of the first who joined this band and he with Marvins Willett and Alexander McDougal were among its leading spirits.

On April 22, 1775, a provincial convention of which Lewis was a member, with delegates from Kings, Albany, Dutchess, Ulster, Orange, Westchester and New York, the rest of the state being a wilderness, was held in Albany and was the convention which

appointed representatives to the first Continental Congress, and Francis Lewis as one of those representatives signed the Declaration of Independence and thus made for himself such an honored place in history as to bring to him and his family a well deserved reward for his faithful services in the cause of American Independence.

This decided stand caused much opposition in the loyalist family of Ludlow to the daughter of the house giving her hand in marriage to the Signer's son Lewis who had already won the lady's affection. The Ludlows were proud of the fact that not one of this name was to be found in the ranks of "the rebels," and the lady's brother objected to his sister's choice because "it would not be at all agreeable to be connected by marriage with a man whose father would certainly be hung." The lovers however were constant and were finally married with the approval of both families. Francis Lewis was employed by Congress in the Revolution, in the importation of military stores and on various secret services, when his well filled purse, always ready at an emergency, made him perhaps as useful to the country as many of those whose military career had gained for them a more brilliant reputation. This same year Elbridge Gerry, Roger Sherman and Francis Lewis were appointed a committee to acquire into the state of the army and devise the best means for supplying its wants, and an empty treasury and half-equipped army made their task a heavy one, but the duty was faithfully executed.

The British then in possession of New York sent a party of light horse under the command of Colonel Bertch and a ship of war to seize Mrs. Lewis and destroy the property on the Long Island shore.

A shot from the vessel struck the board on which Mrs. Lewis stood. One of her women called out "Run Mistress, run." She replied, "Another shot is not likely to strike the same spot" and she heroically stood her ground.

In the work of destruction one of the soldiers seized upon the buckles of her shoes when she said to him, "All is not gold that glitters." The buckles were pinchbeck and he had taken them for gold. When books, papers, furniture were destroyed the

troop left carrying Mrs. Lewis with them, and arriving in New York put her in prison. She was allowed no bed or clothing but what she had on and only the poorest of food. Her life was saved by her negro servant who continued to supply her needs. Some months later General Washington ordered Mrs. Barren, the wife of the British Paymaster-General and Mrs. Kempe, the wife of the Attorney-General, put under arrest in their own homes in Philadelphia until they should be exchanged for the wife of Francis Lewis.

This was finally accomplished but too late to save the life of this most estimable lady, for when released, so great had been her sufferings, her health was fatally undermined and she died before the close of the war and victory had come to the cause she loved.

Julia Delafield, her granddaughter, speaking of Mrs. Lewis's ability quotes the General as saying "she never forgot anything," and thus goes on to say: "To Francis Lewis she was heaven's best gift. When his adventurous spirit led him to embark on long and perilous voyages he knew that he left his children to the care of an able as well as tender mother who could train their characters as well as protect their interests."

In 1777 the First State Convention that assembled at Kingston and which gave to New York her first Constitution appointed Lewis again a representative to Congress, his coadjutors being Philip Livingston, also a Signer of the Declaration, Duane Duer and Governeur Morris.

Often not more than nine members of Congress were present at Meetings, the treasury was empty and the Government had no credit. Generals Lee and Gates were endeavoring to undermine the reputation of Washington and a party was formed of which General Conway was the head to impeach Washington and give Gates the command. Of the New York delegation only Lewis and Duer were on the spot. It required the votes of two members to represent the will of the state and Duer was confined to his bed by illness.

Colonel Morgan Lewis, son of Francis, was first aid to Gates and was then twenty-three years of age, his father had only to remain passive to assure his son's immediate advancement in

rank, but he was not passive. He wrote Governeur Morris begging him to come to Little York, Pennsylvania, at once, and Duer requested his physician to get a letter ready to take him to the Senate House. The doctor said, "If you go you will be a dead man." "Will I die before I reach the Senate?" asked Duer. "No, but you will die in consequence of the exertion." "Then I will go," said Duer. "If you will not assist me somebody else must, but I prefer your aid."

Morris and Gates arrived at the same time and the arrival of the former made it unnecessary for Duer who was wrapped up and ready to be carried to the Senate, to risk his valuable life. The cabal finding they were outnumbered did not bring forward their motion and so ended the last attempt to supplant Washington.

The conduct of both Duer and Lewis is beyond praise and we honor them for the sound judgment and steadiness with which through all obstacles they adhered to their great commander and we know that it is to those two men we owe it that this crisis in the life of the new Republic was passed in safety.

In 1779 Francis Lewis was now elected member of Congress the fourth time, obtained leave of absence to devote himself to his wife Elizabeth Annesley who had never recovered from her barbarous treatment, had but a little time to live. His second son had married Gertrude, a daughter of Judge Robert Livingston of Clermont, and he immediately took his young bride to Philadelphia and introduced her to his mother and so made his dash the closing scene of that mother's life.

Mrs. Lewis could not have been more a victim to the Revolution had she been slain in battle.

Francis Lewis had another severe domestic affliction as his only daughter, his beautiful Ann had fallen in love and had married clandestinely Post Captain Robertson of the English Navy, and the couple had sailed for Europe, and all intercourse between father and daughter ceased. When in after years Mrs. Robertson was left a widow in narrow circumstances and a small sum of money was yearly transmitted to her anonymous; and after Queen Charlotte, wife of George III, died it was discovered she was the benefactress.

Mrs. Robertson like her father was talented and courageous and was able to educate and establish her children in her life time. One daughter married Sumner Archbishop of Canterbury. Another married Wilson Bishop of Calcutta, and another was the wife of James Moncrief Lord-Advocate of Scotland.

In December, 1779, Lewis was made Commissioner of the Board of Admirality. He was a vestryman of Trinity Church.

After fifty winters of anxiety and patriotic labors Lewis retired practically from public life returning with delight to his early loves, heroic poetry, the songs of the Celtic bards and literature generally. He was so fond of Priars poem of "Edwin and Emma" that he named two of his grandchildren after the hero and heroine.

At the close of the war the State gave Francis Lewis a vote of thanks for his long and faithful services, and on his retirement from Congress appointed him a commissioner of the Board of Admiralty.

He was soon after this elected a vestryman of Trinity Church which strange to say is unable at this day to tell in what place in its churchyard the remains of this famous signer of the Declaration now repose.

In his private life in all its details he observed the same precision which characterized his mode of transacting public business, and it was to this and his temperate habits he was indebted for his long life and his powerful constitution, which brought him safely through an attack of yellow fever.

He lived to be a great-grandfather, and his last days were spent in New York City in greatly reduced circumstances. His large fortune having been sacrificed mostly upon the altar of his country's freedom leaving at the settling of his estate only about $15,000.

Julia Delafield in her interesting biography of her grandfather says: "It would be difficult to find so long a life with a purer record."

A shock to the nervous system occasioned by a fall was the cause of his death in the ninetieth year of his age.

CONCLUSION

And now, as your historian comes to the conclusion of this, his labor of love, and in this the late afternoon of his life, he feels he may be permitted to say a few words as to our duty as individuals and as a society.

We have the right, and prize it highly, to call ourselves Sons of the American Revolution by physical descent, but how much more important is it that we be spiritually Sons, inspired and guided in life by the example of our heroic Washington, who more than any other incarnates the ideals of America, and who "reverencing his conscience as his king," in a time of crisis served justly the cause of the people and aided destiny, to shape both a nation and a world. But as "peace hath higher tests of manhood than battle ever knew" we find confronting us today the duty to stand out firmly against the efforts that are being made by a certain alien sectarian and political influence to undermine those fundamental principles of our Declaration of Independence including certain "unalienable rights" and a government deriving its "powers from the consent of the governed." Now these principles are condemned secretly rather than openly by a thoroughly disciplined and powerful hierarchy which also opposes separation of church and State, free schools and a free press each of which has been left us by the Reformation and by our forefathers as a priceless heritage.

While I write this a titanic and far reaching struggle, a war, the most terrible in history, is being waged in Europe and no man knoweth the outcome. And it is this favored land of a Washington and a Lincoln, God's greatest and last experiment, as I believe, of a government based upon Christianity and equal opportunity to all, that we trust is to be the hope and the peacemaker of the Nations, and it is for us to see to it that its power of illumination and uplift to humanity shall not be diminished or lessened in anyway.

During the acts of the world's political drama modern civilization in its westward course had almost completed the circuit of the globe, and all that is wanting to make the cycle complete is China and Japan, and even they are being, in a certain measure,

democratized in both their religion and civil government, so all the more necessary is it for us to preserve strong and unsullied our educational and our ecclesiastical democracy and our government, national and state, free from all taint of alien or ecclesiastical influences.

Let us not forget the words of General Grant before the Army of the Tennessee in 1876:—"If we are to have another contest in the near future of our national existence, I predict that the dividing line will not be Mason and Dixon's, but it will be between patriotism and intelligence on the one side and *superstition, ambition* and *ignorance*, on the other. In this centennial year the work of *strengthening the foundation of the structure* laid by our forefathers one hundred years ago *should be begun.* Let us all labor for the *security* of *free* thought, *free speech, free press* and pure morals, unfettered religious sentiment and equal rights and privileges for all men irrespective of nationality, color or religion."

Bancroft, the historian, says: "America is the chief heir of the Reformation in its purest form;" and may we not justly add: Our free comon school system is the outcome of that Reformation and an expression of the ideas of its noblest leaders.

We as Americans revere those leaders and we know, too, that *Liberty*, Equality and Brotherhood are originally and essentially Christian watchwords and nothing but a spirit of Christian patriotism can keep them realities; so let us in all our work and conferences see to it that we falter not in our efforts to realize our best ideals and labor as

"Statesmen in council met
Who knew the seasons when to take,
Occasion by the hand and make
The bounds of freedom wider yet."

The Battle of Fort Sullivan, June 28th, 1776

BY THOMAS E. TULLY

I THREW down my quill in disgust. From my seat at the desk I could look out of the counting house window and see the choppy waves of the Cooper. How I longed to be away from the office drudgery—from the continuous wrangling with figures which made my head swim.

Charles-Town was all excitement this 27th day of June, 1776, for the British Fleet lay at anchor inside the Bar about a league from Sullivan's Island. On the faces of the Tories as they walked the streets was seen a gleam of exultation—they carried themselves with pride and held their heads high in anticipation of the victory which the fleet would win so easily. They considered it only a matter of a few days until the city would be again under British rule and Lord Campbell once more installed as our master.

Suddenly I heard the sound of a body of men approaching. I went to the Counting House door. It was a detachment of the Grenadiers on their way to Motte's Wharf to embark for Sullivan's Island.

I knew every man in the detachment—I was intimate with several of them. I waved my hand at my friend, Will Jasper, as he passed.

Jasper smiled with humorous twinkle in his eye, then with a shake of his head motioned for me to "fall in."

Until that moment the idea of taking part in the battle had not occurred to me. But Jasper's eye twinkle, and the shake of his head which plainly meant "Fall in," was taken in dead earnest by me.

I at once determined to go with the Grenadiers to the Fort. I had always hated the British officers while they were quartered

in our city. They looked upon us Colonials as a race of underlings, and to take part in an engagement which might humble the pride of our former masters would give me the greatest pleasure.

I turned to my fellow-clerk who was again at his desk, "Sandy I leave you in charge—I'm off to the Fort."

Sandy was slow in thought as well as in action, and it took him about a half minute to realize fully the meaning of my remark.

"Goin' to the Fort, laddie? An' why are ye goin' to the Fort?" "To fight against the British," I answered smiling.

I had by this time put on my coat and stood with my hat in hand. Sandy looked at me in amazement, then he said as he shook his head sorrowfully:

"Mon alive this be a reesky thing ye're doin'—this fightin' agin the King." I could not help smiling at the rueful look upon his face, as I answered:

"Yet you always boast about your grandfather having fought against the King at Culloden."

"But, mon, that was deeferent—my grandsire fought for the Stuart—for his rightful King against the Usurper."

"Well, we are going to fight against a Usurper."

"Who is he, laddie?"

"The King of England, who is the Usurper of our Liberties."

"But, Laddie, He is the King—He is our Ruler an' to fight agin' him is treason."

"But, Sandy, just now we have no King in Carolina—Governor Rutledge is our ruler, and we are fighting against an enemy for our liberties—this king you talk about would take them away."

Then I put on my hat and hastily took my way in the direction of Motte's Wharf. Once I turned and looked back. Sandy was standing in the doorway of the counting house looking after me, no doubt thinking that I had suddenly gone daft.

When I arrived at the wharf the sloop with the Grenadiers on board was about ready to sail. As I attempted to board her, my passage was barred by her captain, who said:

"No passengers!"

This was a condition that I had not counted upon when I made

my boast to Sandy. My jubilant spirits fell, for I was afraid that Sandy would have the laugh on me.

My friend, Sergeant McDaniel, fortunately came to my rescue. "Oh, let him come, captain, there will be plenty of room." McDaniel placed his hand good naturedly upon the captain's shoulder as he spoke.

"No boys wanted on this occasion," said the captain gruffly.

"I'm past nineteen," I said, looking at him.

"And old enough to fight for liberty," continued my friend. "Let him come, captain, we will need all the men we can get before this time to-morrow or I'm badly mistaken."

The captain hesitated for a few moments, then he said:

"Jump on board, my lad." I was on board in a moment, then the lines were cast off, and with sails close to the wind, we began to beat our way across the Cooper to the little palmetto log fort on Sullivan's Island.

I had been up since daylight on the fateful morning of the 28th of June, 1776. I examined carefully the little fortification which was to dispute the passage of the British fleet into our harbor that day.

Only partly finished and composed almost entirely of palmetto logs, it looked to me a very weak defense against the formidable foe which would in a short time begin to batter it with a rain of iron.

I mounted a huge rock on the edge of the beach. From my perch I could plainly see the British fleet riding at anchor near Five Fathom Hole. As I looked towards the fleet, I began to speculate as to the manner in which I would act when the shells began to fall around me.

"Would I prove a craven?"

My speculations were suddenly cut short by the sound of a bugle—then I hurried up to the fort. The men were all at work under directions of the officers. Preparations for the reception of the unwelcome visitors were being made. The hour for the approaching struggle was near, and everyone worked rapidly at his allotted task.

My friend Jasper assigned me to a squad of men, and soon I was busy helping them place a log in position on the side of the

fort nearest the city. Upon the summit of one of the merlons of the fort was our flagstaff from which proudly floated the blue flag with the white crescent, and the word "Liberty" in large letters.

The sky was cloudless and the sun was beginning to beat down upon us. But we were all too busily engaged at our tasks to feel such a trifle as the heat. It was a battle just then against time and we worked accordingly.

Col. Moultrie and Major Marion were standing apart engaged in earnest conversation. Then Col. Moultrie hastily mounted his horse and rode off rapidly in the direction of the "Redoubt," where Col. Thomson with the "Rangers" lay quietly waiting to dispute the landing of Sir Henry Clinton and his body of two thousand regulars upon the eastern end of the island. Only a narrow inlet separated Long Island, where Sir Henry and his men were encamped, from Sullivan's Island, and this inlet or channel was sometimes fordable at low tide. Col. Moultrie had gone to advise with Col. Thomson before the fleet would begin their bombardment of the fort. And the work in our little makeshift fortification continued with unceasing energy.

Captains Horry and Huger seemed to be everywhere—they directed the men, and did not hesitate to lend a hand in lifting when a heavy log occasionally resisted our efforts to place it into position. Lieut. Col. Motte and Major Marion inspected carefully the cannon, then went into the magazine, where they remained for some time.

Probably an hour and a half had elapsed from the time of his departure before the return of Col. Moultrie. He came galloping back, his horse covered with sweat, and as he dismounted he was immediately joined by Motte and Marion. The three entered the fort. Orders were given and immediately the "Long Roll" was beat. Everyone hurried to his post.

THE FLEET WAS PREPARING TO MOVE!

I took my position in Sergeant Jasper's gun squad, for I looked upon him as my sponsor—I felt that he would find some work for me.

All eyes were now turned seaward. We could see the huge sails of the British warships as they were hoisted. Then one by

one the fleet began to move towards the little palmetto log fort Sullivan.

On they came, the warships of a nation which hitherto had never met defeat upon the ocean. Graceful, majestic, they moved. Like huge swans, their spread sails the wings, they approached us leisurely. I counted them, there were eleven vessels in all!

Verily it was a queer sight! Eleven huge warships—ships of a nation whose navy was the most powerful in the world, coming to storm a little half constructed fort built of palmetto logs, and garrisoned by men the majority of whom had never taken part in a battle. The British commander must have had great respect for the handful of men in the little makeshift fortification out of courtesy called "Fort Sullivan." He evidently looked upon the Carolinians as men not easily to be subdued.

As the fleet neared us Sergeant McDaniel began to whistle, "The Campbells are coming." This was in allusion to Lord William Campbell, our last Royal Governor, who had fled from the city and was now on board of the flagship under the protection of Sir Peter Parker.

"The Campbells are coming," but "The Rebels are not running, no, not yet," cried one of our men in laughing tones.

By this time the ships had neared us. Leading came a vessel a little smaller than the rest of the fleet. She was escorted by a larger ship. The smaller vessel was the "Thunder," the bombship of the fleet. Her escort was the "Friendship," a twenty-two gun ship.

Both vessels dropped anchor about a mile and a half from us. In the fort all was quietness. Officers and men alike realized that the crisis had come. Everyone was keyed up to the highest tension, and with subdued excitement we quietly stood at our guns awaiting orders.

From the deck of the "Thunder" there was a sudden puff of smoke. The mortar on the bombship had sent us its first love-token!

"The fun has commenced, me lad," said Jasper, a grim smile upon his usually cheerful countenance.

But there was not much mirth caused by the cannonade from the two ships, for shells began to fall around the fort very rapid-

ly. It was now somewhere between ten and eleven o'clock, and the sun which was beating down upon the sand around us made the reflected heat as scorching as the glare from a furnace. The rest of the warships had come up rapidly—they had approached nearer the fort.

About this time there was consternation in our midst. A shell from the "Friendship" fell upon our magazine. Luckily it did not explode and it did but little damage. Tide being at the flood gave the vessels the advantage of choosing positions to suit themselves before anchoring. Four of them came within easy range of the guns mounted upon the southwestern bastion of our fort, and we at once opened fire upon them. The leading vessel, which I afterwards learned was the "Active," twenty-eight guns, treated our fire with contempt and continued her course until she was within about four hundred yards of us.

Then she cast anchor and immediately emptied a broadside at us. Her fusilade, however, did but little damage, for most of the shells buried themselves in the spongy logs of the fort or disappeared in the mounds of sand around it.

The other ships took positions now, and as they anchored, each favored us with a broadside.

"Good morning, Sir Peter," Jasper waved his hand as he spoke at the Bristol, the large ship from which the Admiral's broad pennant floated.

Shells began to fall rapidly in the fort, several of our men were wounded, and two brave fellows were dead. Jesting had ceased—with all now was a feeling of grim determination. We were fighting with our backs against the wall and every man felt that it was "to do or die." If we could not win the battle we could at least die like brave men—there were no faint hearts in our little band that day.

Col. Moultrie, Lieut. Col. Motte, Major Marion, these three seemed to be everywhere at the same time. Encouraging the men, advising them by their constant attention they cheered us, and everyone fought with hopeful determination.

Major Marion upon several occasions mounted the walls of the fort in order to direct the aim of our gunners.

The fire from the fleet had by this time turned into a regular

rain of shells. More of our gallant boys were wounded, and I saw one poor fellow drop dead torn by a shell. The bombs from the "Thunder" were now beginning to fall within the fort frequently. But the fleet did not escape our shots unharmed. In the fort every man had been cool; we remained at our posts, and the gunners under instructions from Major Marion had taken careful aim. Nearly every shot told, and we could see huge gashes in the sides of the warships. We had struck several of the masts, and once I saw a cross-tree fall over the side of a ship.

On the decks of the Bristol we could see one of her officers directing men who were removing the wounded.

Then an unexpected movement of the fleet threw us into consternation. Three of the ships, the Acteon, the Sphynx and the Syren moved in the direction of the western or end of the island nearest the city.

Had they successfully passed in the channel and reached the destined point, we would have been at their mercy. The east end of the fort had been left unfinished. Our garrison would be an easy mark for their guns, and if we attempted to continue to serve the guns in the fort the ships could rake our positions with deadly effect.

In attempting to accomplish their move, the three ships were compelled to stand over towards the middle ground in order to give the balance of the vessels engaged in action a clear field. This was our salvation, for this middle ground was shoally. Suddenly the Acteon and the Sphynx ran afoul of each other, and the three vessels were then forced by the tide upon a shoal, where they stuck fast.

The crew of the Syren after much exertion succeeded in getting her off, the Sphynx followed, having, however, lost her bowsprit, but the Acteon, despite the exertions of her crew, remained immovable upon the shoal.

This fortunate event cheered us considerably. We had three antagonists less to contend with, for the Acteon upon the shoal was powerless to do us harm, while the Syren as well as the Sphynx had to withdraw from the engagement in order to repair damages.

Then the "Thunder" suddenly ceased throwing her lovetokens

into the fort. We afterwards learned that the recoil from her mortars had damaged her to such an extent as to render her unfit for further service at the time. But the seven remaining ships continued to batter our walls unceasingly. But we were all in good spirits and worked with renewed energy.

Then came a cry of dismay from one of our boys. He pointed to the summit of the merlon from which our blue flag had so proudly floated during the engagement. THE FLAG AND PART OF THE STAFF WERE GONE. At once clear and loud rang out a familiar voice:

"DON'T LET US FIGHT WITHOUT A FLAG."

I looked just in time to see Sergeant Jasper as he leaped from one of the embrasures after the missing banner. For a few minutes officers as well as the men held their breath, then hatless, his red hair floating in the wind, his face black from the grime of powder smoke, the hero appeared unhurt, the flag clutched tightly in his hand.

We welcomed him with a loud cheer and our guns which had remained silent during the interval, belched forth their iron messengers of destruction into the sides of the four vessels nearest to us by way of a salute for the gallant deed performed.

But bringing the flag back into the fort did not complete the gallant Jasper's deed, for hastily fastening the banner to a sponge staff, the undaunted fellow amidst the rain of shells which was falling on every side, mounted the summit of the merlon and placed the sponge staff in position. Once more the blue banner with the white crescent and the word "Liberty" floated defiantly before Sir Peter Parker and his ships.

Away to the east we could see high above the dense growth of myrtles and cedars a huge cloud of smoke slowly rising.

We knew that Col. Thomson and the "Rangers" were disputing the landing of Sir Henry Clinton and his regulars.

We could not hear the sound of the discharge of their arms, for the continuous cannonading around us deafened us to everything, but that a skirmish was taking place we all felt sure. Col. Moultrie and his officers were in earnest consultation in one corner of the fort.

Once I caught a glimpse of the face of our brave commander—it was unusually grave—then I knew that much depended upon the outcome of the battle at the other end of the island. But I had heard much of Col. Thomson and his brave "Rangers," and I knew that he and his men would give a good account of themselves. If coolness, bravery and skill with the rifle counted, there would be many redcoats who would bite the dust before the day was much older.

On the eastern end of the island in the redoubt called "Advanced Guard," Col. Thomson and his "Rangers" held Sir Henry Clinton and his two thousand men in check. The inlet through which the British commander had expected to cross to Sullivan's Island on this fateful 28th of June was unfordable. For several days previously the continuous east winds had caused unusually high tides, and the swift currents rendered an attempt to cross extremely dangerous if not foolhardy.

But Sir Henry was not to be balked—he changed his plans. He sent the armed flotilla with which he had been supplied by Sir Peter over to effect a landing. In goodly array the boats advanced.

The "Rangers" knew very little about the use of artillery—they were not cannoneers—but they were all experts with the rifle.

They tried serving the two guns with which the redoubt had been provided, but they could not use them to advantage. The cannon were set aside, and their deadly rifles were substituted.

The British soldiers in the boats were targets upon which never a shot was lost. The boats continued to advance, although the men were falling continuously upon their exposed decks. Every shot from the "Rangers" told, but the advance was not stayed until the grapeshot from Col. Thomson's guns raked the decks with deadly effect. No men could stand the rain of lead and iron which was showering upon the advancing flotilla, so hastily they put back to Long Island.

They landed upon the beach and some of them bore away the wounded, while the rest began to dig trenches in which to bury their dead comrades.

Sir Henry made no more attempts to cross to Sullivan's Island —the first attempt showed him how useless others would be, and for the balance of the day he stood upon the beach gazing in the direction of the fleet, powerless to render Sir Peter the assistance which the latter needed, and which would have meant annihilation to our handful of brave men in the fort.

Early in the battle Col. Moultrie had instructed us to centre our fire upon the admiral's ship, the "Bristol." We obeyed him to the letter. The "Bristol" and the "Experiment" were our two special targets.

The "Bristol" was the flagship; on board was the British admiral, Sir Peter Parker, and Lord William Campbell, our former Royal Governor. Lord William had at one time been an officer in the royal navy, and he had as a matter of courtesy been placed in command of the lower deck by Sir Peter. He managed his men admirably, but during the engagement received a wound in the side from which he afterwards died.

Sir Peter, although wounded twice during the battle insisted upon remaining at his post, and by his example his men were greatly encouraged. The "Bristol" had the spring of her cable shot away, and as she drifted she was raked fore and aft by our guns. We learned afterwards that over a hundred men were killed and wounded at that time. Capt. Morris, the officer next in command to the admiral, had his arm shot off and died a week afterwards.

The "Experiment" fared almost as badly as the "Bristol." Capt. Scott, her commander, lost his arm, and about the same number of men were wounded and killed as upon the "Bristol."

The little palmetto log fort gave a good account of itself that day! The men behind its walls were heroes—they made history for Carolina.

The mainmast of the "Bristol" was so weakened from the grapeshot with which our cannon had filled it, that for safety sake it had to be shortened, her mizzenmast had to be cut away, while the hull was almost a sieve from our shots.

Then came the order to "cease firing." It took us by complete surprise, so unexpected was it. Our supply of powder was run-

ning low and Colonel Moultrie had been instructed by General Charles Lee to retreat in the event of the ammunition giving out.

But to retreat at this time meant to leave Col. Thomson and the "Rangers" at the other end of the island to their fate. Hemmed in on one side by Sir Henry Clinton and his army, and with the marines from the fleet in possession of the fort there would be no escape.

Thomson and his brave men would have to surrender or be cut to pieces. But Col. Moultrie was not the man to desert his friends. He was well aware that the little garrison in the fort. himself and officers, would all have been on a hasty retreat if Thomson and his brave "Rangers" had not held Sir Henry Clinton and his men in check.

Col. Thomson and his men have never received full credit for the part which they played in the drama enacted that day.

But Col. Moultrie, aware of the assistance given him, big hearted and generous, as well as brave, he resolved to resort to strategem in order to carry out Lee's instructions. He ordered the intervals of time between the discharges of the guns in the fort to be lengthened. There was to be an interval of ten minutes between the discharge of each gun. In this way, while carrying out General Charles Lee's orders, Moultrie held himself and the garrison in readiness to aid Thomson, should the latter be forced to abandon his position at the other end of the island and retreat from the "Advance Guard."

After several minutes had passed without fire from the fort, we could hear cheering from the "Bristol." The crews of the fleet supposed that our guns had been silenced! But we soon disabused their minds, for we again opened fire upon them. But the pauses between our guns were so long that our actions gave alarm even to our friends who were eagerly watching us from the waterfront in the city. They were under the impression that our guns had been disabled, or that we were about to surrender.

Then in some unaccountable way the report spread amongst us that Sir Henry Clinton and his regulars had succeeded in effecting a landing on the island, and that Col. Thomson and his men were in full retreat in the direction of our fort. All firing

was immediately stopped in order to verify this report, but it proved to be a false rumor and our alarm was dispelled.

About half past five in the afternoon President Rutledge succeeding in sending Col. Moultrie FIVE HUNDRED POUNDS OF POWDER, a gift at the time more welcome than its weight in gold. We hailed its appearance with such a wild cheer that the sailors upon the fleet rushed to the sides of their vessels and peered anxiously in the direction of the town, doubtless expecting to see new assailants approaching by water.

In a few moments with renewed energies and lightened hearts we again directed our guns at the fleet and raked their decks.

During the cessation of fire in the fort I had opportunity to look around. A scene of devastation met my eyes. And the sad sight of our brave dead! Eleven of our gallant fellows lay dead, and my friend, light-hearted, merry, brave McDaniel, the man who had obtained passage for me upon the sloop the morning before, lay dying in the arms of one of our men. He smiled at me as I stood near him, then with an effort he waved his hand to us as he said:

"Fight on my brave boys—don't let Liberty die with me today." We heard him plainly and there were tears in the eyes of some of our men as the hero lay back in the arms of his friend and in a few moments calmly breathed his last.

Knights of old never fought more bravely, nor did ever hero die with more unselfish sentiment than this gallant Carolinian whose last words were for the success of the cause he loved so well.

We kept our fire at shorter intervals until after seven o'clock.

After sunset the enemy shortened their fire, then a little later the cannon on the fleet ceased its thunder.

By nine o'clock not a gun was to be heard—no sound disturbed the continuous roar of the surf upon the beach.

And we in the fort felt that the battle was won!

That night somewhere about eleven o'clock the British fleet, with piping or the least noise, slipped their cables and with the ebb tide returned to their former anchorage near Five Fathom Hole.

At daylight we were all up and clearing away the debris in the fort. The river upon which our late antagonists had floated, rolled peacefully by, while his majesty's fleet lay at a safe distance from the foe whom they had looked upon as conquered before a gun had been fired from their hitherto invincible war ships.

Opposite Morris' Island the vessels lay, and the admiral's broad pennant on a jury-mast could faintly be seen by us.

On our palmetto log fort the blue banner, with its crescent and "Liberty," still floated defiantly. The sponge staff still held it aloft—the banner which had waved over the handful of men whose pluck and daring had caused the admiral of the greatest navy in the world to "jurymast" his broad pennant and run away under cover of darkness.

About a mile away from us, out on the reef, the Acteon still lay fast aground. We favored her with a few shots. Her gallant commander, Captain Atkins, undaunted by his misfortune, returned our fire.

Then after setting the vessel on fire her boats were lowered and Atkins with his officers and men bore away in the direction of the fleet.

The officers and crew of the Acteon had scarce abandoned their vessel when a boat from our little Carolina warship, the "Prosper," with a picked crew under command of Lieut. Milligan at once boarded her.

The guns of the Acteon were turned upon the retreating boats. Three shots were fired, but the dense smoke which was pouring from the hold of the vessel as well as the crackling of the fire, which was now beginning to make rapid headway, warned the boarders that their stay must be short. The guns were abandoned and the Prosper's boat was loaded with the most needed stores from the burning vessel.

Lieut. Milligan secured the Acteon's colors, as well as the ship's bell. Then the boarding party hastily made their way back to their own vessel. Nor did they come a moment too soon, for not many minutes after their departure from the Acteon the fire reached her magazine and the vessel blew up.

The British fleet troubled us no more. The battle of Fort Sullivan was won!

The first great victory of the War for Independence had been gained by a few undaunted patriots in a fort but half completed and built mostly of palmetto logs.

History of the Morman Church

By Brigham H. Roberts, Assistant Historian of the Church

CHAPTER CIX

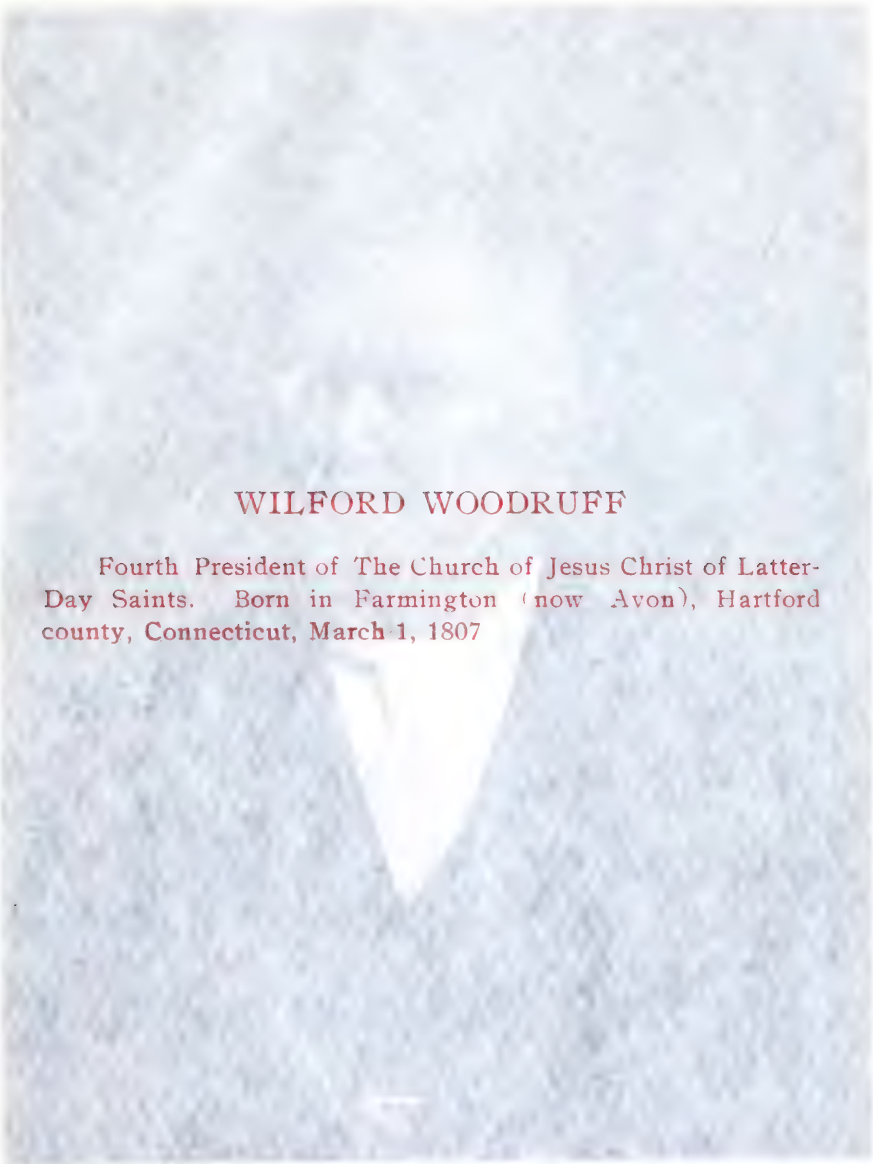
Politics and the Godbeite Leaders—The Grant Appointees—Governor Shaffer and the Nauvoo Legion—Provo Riots and Gen. De Trobriand—Gen. Sherman and "Hard Times"—Death of Governor Shaffer

WHILE the Godbeite revolt cut a ridiculous figure as a religious "movement," it does challenge some respect as a factor in the current political events of 1870. That year saw the birth of the "Liberal" or anti-Church political party; and its origin was due to the Godbeite revolt.

The municipal election for Salt Lake City officers would take place in mid February, and as the coterie of newly apostate Mormons were supposed to be men of considerable influence among the Latter-day Saints, and, moreover, were already in possession of a weekly periodical, the *Utah Magazine,* it was thought that by a union with the Gentile citizens at least a respectable showing could be made at the polls, and the entering political wedge be inserted that would finally destroy the alleged political solidarity of the Church. "The Gentiles," says the historian of the movement, "with political sagacity, kept in the background, merely playing the part of advisers, helpers and voters."

In the furtherance of this plan the *Utah Magazine,* hitherto the organ of the "New Movement," was transformed into the *Mormon Tribune,* and became an anti-Church paper.[1]

1. The *Mormon Tribune* "ran off its first copy on the night of January 1st, 1870, which date it bore. Its original editors were Harrison and Tullidge, with Eli B. Kelsey, business manager. William S. Godbe was its financial guardian. Willaim H. Shearman soon afterwards became business manager and associate edi-



WILFORD WOODRUFF

Fourth President of The Church of Jesus Christ of Latter-Day Saints. Born in Farmington (now Avon), Hartford county, Connecticut, March 1, 1807



In the municipal election of 1870 the Liberal Party cut but a sorry figure. Henry W. Lawrence was the candidate for mayor and there was a full aldermanic ticket nominated, but the party polled only an average of about three hundred votes, to an average vote of about two thousand for the ticket they opposed.[2] One incident to be deeply regretted was the capture of a Liberal Party meeting, by their opponents. On the 9th of February at the Masonic Hall representatives of the Liberal Party met in caucus, effected an organization, appointed a central committee to serve one year, nominated a ticket for the city offices, appointed a mass meeting for the following night, February 10th, to ratify what had been done, and to exchange views on the questions before the people. Placards addressed to the people were posted in all parts of the city, giving information as to the purpose of the meeting—"the nomination of a people's free and independent ticket for mayor," etc., and closing with the often used "*come one, come all*" of such placards, and signed "Many Citizens." The *Deseret News*, of the 10th of February, called attention to these placards, and perverted the intent of

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tor, and Kelsey and Tullidge retired." (Tullidge's Hist. of Salt Lake City, Appendix, 9) A little more than a year after its initial number came from the press, the *Mormon Tribune* passed into other hands, was changed from a weekly to a daily, dropped the pre-fix "Mormon" from its title, and became a secular newspaper with strong anti-Mormon proclivities. (See note 1 end of chapter) About the same time the Salt Lake *Herald* was brought into existence under the following circumstances, according to Mr. Tullidge: "The Daily *Herald* was [first] issued on June 5th, 1870. Its size was four pages, 14x20, in five columns. E. L. Sloan may editorially be considered the founder; Mr. William C. Dunbar was its business manager, and in this respect he was a joint founder, both of these gentlemen going into the enterprise together. The times were propitious for its start, for the Salt Lake Daily *Telegraph* had just been discontinued, leaving the field open for a new paper. During the latter part of its career, Sloan was the editor and Dunbar the business manager of the *Telegraph*. Notwithstanding the *Telegraph* had been moved to Ogden by counsel, these gentlemen sagaciously saw that a secular newspaper, conservative of the Mormon citizen's rights as well as supportive of the just claims of the Gentiles, who had now become an influential factor in our mixed society, was needed most in Salt Lake City. This was the basic idea of Edward Sloan as a journalist. But there was also another view that made this paper a necessity. The *Tribune* [as stated above] had started and it was, it must be confessed, an anti-Church paper. The *Herald* had, therefore, the chance of a more purely journalistic mission before it, and those who six months before might have discountenanced its starting saw the then present need of the times and the surroundings; thus the *Herald* started with a decidedly winning advantage. History of Salt Lake City—Tullidge—Appendix, p. 9. The Herald continued true to its mission throughout the Territorial period of Utah; and after statehood was obtained it continued as an independent Democratic paper until absorbed by the *Inter Mountain Republican*, which became as a consequence of the absorption the *Herald Republican* of the present day.

2. See Report of Central Committee of Liberal Party in Tullidge's Hist. Salt Lake City, pp. 432-3; also Deseret News—Weekly—for Feb. 23, 1870.

them; and advised that since the object of the meeting was "one of general interest to all classes of our citizens, we hope," said the *News,* "there will be a crowded attendance. We want to see a good ticket nominated for city officers, and the occasion is one in which every citizen should be interested."[3] On this hint some of the "citizens" acted, and the pity of it is that some of them were prominent men in civil and ecclesiastical life of the community. They forcibly took possession of the meeting over the protest of Mr. Eli B. Kelsey, who informed them that this was an adjourned meeting of which he was chairman. He was ignored, however, and a new chairman and secretary were elected. When nominations were called for, one by one the nominees of a previous meeting that had been held in the Tabernacle, on the 5th of the same month, were brought forward and placed in nomination at this usurped meeting. The so-called party *coup d' etat* is utterly indefensible from every view point, and was successful only because the party against whom the injustice was practiced was not strong enough to resist it by force. The injustice of the procedure was doubtless not appreciated at the time.[4]

The minority party two days before the election made application for the appointment of one judge of election out of the three; and one clerk out of the two at the polls, but this was denied them by Mayor Wells, on the ground that the judges and clerks had already been appointed by the city council on the 1st of the month. He courteously assured the representatives of the new party, however, that "every protection" would be afforded the "voters to vote their respective tickets without par-

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3. *Deseret News*—Daily—Feb. 10th, 1870.

4. It has been suggested that the whole incident was but a practical joke, discourteous, perhaps, as most practical jokes are, but still a joke, etc.; but the evidence of the "joke" is entirely lacking, and of course was not seen in that light by those upon whom it was practiced, while the official dignity of those engaged in it would forbid acceptance of the theory. Another suggestion is that it was "merely a political move of party managers to show the people how futile an opposition party was, and how easily overwhelmed." (Tullidge's Hist. of Salt Lake City, p. 429). In that event it was pretty serious business, and leads to the same conclusion expressed in the text. Stenhouse states that Brigham Young sent his chief clerk the next morning to assume responsibility for the damage done to the Hall and the broken benches, and adds that "it was very fortunate that only broken benches had to be settled for." He represents it as a serious incident and one that might easily have ended in tragedy.

tiality or hindrance; . . . and it is designed" he added "to enforce the strictest order."[5]

Fortunately the election passed off peacefully, and with the result already stated.

The schismatics of the Godbeite movement were accorded an influence in the affairs of Utah at Washington, for a time, that was out of all proportion to their local influence or their numbers; but the country hoped much from the expected "division" they were to bring about within the Church. Fortunately they were men who beyond doubt wished well for the people of Utah; and, moreover, they themselves, or most of them, were involved in the institution at which the unfriendly congressional legislation was aimed—*viz,* polygamy; and evidently they desired to honorably discharge all moral obligations to their families.

The Cullom Bill, then pending before congress was not only a measure to make the punishment of bigamy more certain, but proposed the disruption of the homes already established by such marriages in the past.[6] In view of that fact these schismatic brethren called a meeting with the more conservative Gentiles of the community to recommend some modifications of the Cullom Bill. In that meeting the sentiment of the Godbeite leaders, in the main, was to ask for such modifications of the Bill as not to disrupt existing family relations.[7] The prominent Gen-

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5. The lateness of the application and the previous appointment of the election judges and the clerks may have justified the action of Mayor Wells, but of course minority parties must have the assurance of fair treatment at the polls by the presence of their representatives, rather than by the assurance, however, kindly, of their opponents; and that principle, of course, became recognized in the legislation of Utah as elsewhere, in time. (See act of the legislature Feb. 22, 1878, compiled laws of Utah, 1888, Ch. IX, Sec. 9, p. 321).

6. "The superfluous wives of Young and his followers," said the Missouri *Republican,* commenting on the bill as it passed the House, "are declared concubines and their offspring bastards and both women and children are literally turned out of doors and consigned to the cold charities of the world. The punishment of these comparatively innocent parties is actually more severe than that inflicted upon the more guilty. The male polygamist may escape scot free by simply giving up his female companions, but in any event they [the women and children] are reduced to pauperism at once, and forced to beg, starve, or do worse." Impression of March 27th, 1870.

7. E. L. T. Harrison said that the object of the meeting, as he understood it, was "to see if we could unite upon a memorial to be addressed to the Senate, requesting such modification of the Cullom Bill as would except all marriages entered into before the passage of the Bill. Mr. Stenhouse sustained Mr. Kelsey's position. If there had been a wrong in the past conduct of the Mormons, with respect to the violation of the act of 1862, he considered government equally as culpable as the people by their neglect on the subject. He heard Mr. Lincoln him-

tiles who attended the meeting were divided in opinion in the matter. Gen. Geo. R. Maxwell, U. S. land register, a veteran of the civil war, was unwilling to ask any leniency respecting polygamy, but would join in an effort to have the land and disfranchising clauses so modified as not to injure any who were disposed to be loyal to the government." Mr. Thomas Marshall, a prominent Gentile lawyer, was opposed to polygamy "and would favor any measure which confined itself to stopping the spread of the practice. For this reason he decidedly approved the main measures of the (Cullom) Bill, provided existing relationships were not interferd with."[8]

The result of the conference was that a committee of seven was chosen to draft and forward to congress a memorial asking for such modifications of the pending measure before congress as leading Gentiles and the Godbeite leaders could endorse.[9]

The appointment of the Committee amounted to nothing, however, since before it proceeded far with its work, members of it waited upon some of the Church leaders—upon Elders John Taylor and Geo. Q. Cannon, of the council of the Twelve Apostles, in the absence of President Young in the southern settle-

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self say, that 'if the Mormons let him alone, he would let them alone.' He, Mr. Stenhouse, would join in soliciting for a modification of the act. There were many points to which the attention of government ought to be called. One was that the circumstances of the people would not permit a separate provision for their families, were they ever so disposed to obey that part of the Act; and that the carrying out of its provisions so far as existing polygamous families were concerned, would involved the people in an amount of loss and suffering of which the government has no conception." The quotations are from the *"Mormon Tribune,"* last issue in March, 1870, the meeting was held on the 26th of March. See also Tullidges *Quarterly Magazine* of Oct., 1880, p. 59, 60.

8. *Mormon Tribune* March, 1870, and Tullidge's *Quarterly Magazine* Oct., 1880, p 60, 61. Mr. Marshal also "testified to his personal knowledge of the virtue, integrity, and loyalty of many gentlemen who were already practicing polygamy in Utah, and although he believed it to be a very great evil he felt it would be a still greater evil to break up family associations already formed. To do the latter he realized would be productive of great suffering and wrong, and, therefore, he should put his name to the proposed petition even if it stood there alone."

9. The committee as at first named included *Messrs.* J. R. Walker, J. M. Carter (of the law firm of Marshall and Carter), Samuel Kahn, R. H. Robertson, Warren Hansey, Thos. Marshall, and O. J. Hollister. Mr. Hollister subsequently "declined to act, and Bishop Daniel S. Tuttle, then in charge of the Episcopal missionary district, comprising Utah, Idaho, and Montana, "being informed that some gentleman had suggested his name as one of the committee, in a most kindly and Christian spirit cheerfully consented to fill Mr. Hollisters place." *Mormon Tribune* account of the meeting, quoted in Tullidge's *Quarterly Magazine,* Oct., 1870, pp. 59-61. Also *Deseret News*—Weekly—for 6th of April, p. 107.

ments of Utah[10]—and asked them if they would pledge the Church to abide the law in the future if the proposed legislation should leave the past untouched. Not feeling at liberty to give any such pledge, having no authority to do so, the two apostles gave a negative answer to the question, whereupon the committee "resolved to fold its arms and let events take their course."[11]

Some time previous to this Mr. Godbe had been sent to Washington strongly recommended to the consideration of President Grant by both the "New Movement" leaders and the Gentiles.[12] It is said that at Washington Mr. Godbe was introduced to President Grant by Vice President Schuyler Colfax who then left them to a long conference relative to Utah affairs which ended, it is claimed, in President Grant very greatly modifying his views on the subject of the Mormon question, bringing him to the policy of sternly enforcing the national laws made for Utah without reference to any new legislation, and keeping only such portion of the regular army in the Territory as might be necessary to constitute a "moral force," instead of regular troops to enforce the law, or by calling forth volunteers to the number of "forty thousand" to enforce the anti-bigamy law, as was proposed at one time in the Cullom Bill.[13] A protracted consulta-

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10. Deseret News—Weekly—of April 20th, 1870. President Young was absent fifty-two days on this journey in the south—the longest time he had been absent from the city since his return from Winter Quarters in 1848 with his family. This long absence in the south was interpreted in the East as meaning that he had already "fled" from the menaces contained in the Cullom Bill, and it was thought in many quarters in the east that he would not return—that the threatened Mormon exodus in the event of the Cullom Bill passing was already begun. The President was given a hearty welcome by the Latter-day Saints on his return, as may be judged by the following brief account of it in the *Deseret News*—Daily—of April 18th, the President returned on the 16th: "The manifestations of welcome extended to President Young on his return to-day were never more numerous and enthusiastic. Citizens of all classes, and in very great numbers, accompanied by bands of music and hundreds of Sunday School children giving the most unequivocal expressions of their joy and gladness at his reappearance in their midst. We take very great pleasure in chronicling the fact."

11. Letter of O. J. Hollister to the Omaha *Herald* under date of April 2nd, copied into the *Deseret News* of April 20th, 1870.

12. See Tullidge's Quarterly Magazine of Oct., 1880, p. 58.

13. See New York *Herald* of 24th of March, 1870. Even with some of the more vicious section stricken out and as it passed the House, the N. Y. *Herald* still characterized it as a "cruel and tyrannous measure; and suggested that it would be better to leave their (the Mormon) system to the melting influence of the universal ballot (which unfortunately this bill curtails), the schism, and the 'iron

tion which Mr. Godbe had with Mr. Cullom, is said to have had a like modifying effect upon the Illinois statesman; and so throughout there was, it is claimed, moderation of views at the national capital by reason of the intervention of the "New Movement" leaders,[14] with a like effect upon the administration of affairs in Utah by the Grant appointees to the federal offices in Utah.[15] It is even claimed that the national military officers consulted with the "New Movement" leaders[16] as to the military policy to be pursued, which led to the following conclusion:

"That military force was not necessary to solve the Utah problem; that all which was needed was sufficient troops in the Territory to act as a 'moral force' upon the public mind, convincing the Mormons that the government intended to carry out its policy; that as more troops were designed for Utah, Provo would be the best place to station them; that these military movements should show no design to intimidate the Mormons, but simply to assert the National authority by their presence."[17]

Nothing should be allowed to detract from whatever of merit belongs to the "New Movement" leaders in bringing about modifications in legislative measures or executive policies relative to sorely-beset Utah. And doubtless the hope that there would result from their "rebellion" against the "one man power in Utah," a permanent schism in the Church of the Latter-day

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horse.'" (Id). "It cannot be denied," said the Missouri *Republican*, "that the policy indicated in the enactment is nothing more or less than persecution, and will be so regarded by the Mormons themselves," impression of March 27th, 1870.

14. "The substance of the Utah policy recommended by Mr. Godbe and his compeers in 1869-70 to the Government and leading men of the nation was to first establish over this Territory a firm and potent federal rule. This, rather than special legislation and the increase of troops, was held to be the initial move of a proper United States policy for Utah." (Tullidge's *Quarterly Magazine* of Oct., 1880, p. 58).

15. *Ibid*, p. 63, Where, after detailing an interview between Governor Shaffer and Eli B. Kelsey, wherein Kelsey pleaded the Mormon cause, it is said: "From that time Gen. Shaffer modified his desire for a war crusade against the polygamic people. His resolve thereafter was simply (to use his own words) to make himself the Governor of Utah in fact, and commander-in-chief of the Militia" (Id).

16. "President Grant sent General Phil Sheridan to Utah to judge of the situation and to establish another military post. On his arrival, General Sheridan sent for Mr. Godbe to meet him at the Governor's rooms. "Mr. Godbe," said the General, "President Grant has instructed me to come to you for my orders!" Such were exactly his words. And later he said in the presence of many federal officials: "The President has charged me to do nothing without consulting Mr. Godbe and his friends." Tullidge's Quarterly Magazine, Oct., 1880, p. 63.

17. Ibid.

Saints, led the Washington authorities for a time to concede very much to their suggestions. But their influence was only temporary. It soon became apparent that they constituted no "party of reform" within the Church, in any large way, and they were soon absorbed in the Gentile anti-Mormon political party, the formation of which—inevitable in any event—their "rebellion" only hastened. Nor even in the matter of modifying the legislative and executive policy towards Utah were the "New Movement" leaders the principal factors. Other forces were operating; and of these the courage, boldness, and unfaltering faith of the Latter-day Saints themselves, which prepared them to make any sacrifice that might be necessary to maintain what they conceived to be the truth, and which constituted their religious faith, was one of the most potent.

There brave attitude and calm confidence in the overruling providences of God in this crisis of 1869-70, have already been set forth in these pages;[19] and it brought forth a widespread admiration for the sincerity of these "religious fanatics of the nineteenth century." The question was asked in other places than in Utah, and by other persons than Mr. Colfax "*Will the Mormons Fight?*" and although there was never a doubt as to the final outcome of the "war," should it come, yet the settled conviction of the country seems to have been that the Mormons would fight, the conclusion being based upon previous manifest willingness to do so, and to sacrifice their property by destroying it, and following this act by flight to the mountains. The Omaha *Herald* in commenting on the Mormon protest against the passage of the Cullom Bill by the senate after it had passed the house said:

"Notwithstanding the temperance and moderation which appear to have ruled the late action in Salt Lake, it requires no great discernment to perceive the determined spirit that lies behind it. If the Cullom bill shall become a law it will produce

19. Chapter CVII. Tullidge, the Historian of the "Godbeite Movement," thus speaks of the attitude of the Mormon Church leaders, and of their people in the crisis of 1869-70: "This age has never witnessed another such example of religious defiance of all earthly governments, not even was that of the 'Utah War' its equal, for this was made, not in isolation now, but in the very face of the American nation, with the railroad completed over which, in a few days troops could have been hurried by the conqueror of the South." (The Godbeite Movement Oct., 1880, p. 57).

war and bloodshed. No man at all acquainted with the condition of affairs can doubt this, and we do not know how these consequences can be averted in that event. It is evident that the Mormon people intend to exhaust peaceful means to prevent the invasion of their homes and firesides from what they deem the destroying arm of religious persecution, but we do not think we are speaking unadvisedly when we continue to warn all that the Cullom bill means violence, war, and the certain destruction of great interests."[17]

Before the House of representatives had eliminated from the Cullom Bill its special military features, the New York *World* said:

"This Bill means war. Its terms and its provisions are in the nature of preparations for war. Its execution will assuredly be followed by war. Not only is the regular army to be ordered to Utah, but volunteers are to be called for, and these forces are to be placed under command of the experienced military officer General Schaffer, whom Grant just appointed Governor of the Territory. . . . Either the President or Congress has the power of putting the Territory of Utah under martial law; and if Grant signs this bill, there need be no doubt that he will be prepared to exercise that power."[18] . . . *Will the Mormon's Fight?* Will they fly? . . . Fifteen years ago, when the Mormons had less than a quarter of their present strength they showed their entire readiness to fight for their

17. Omaha *Herald* of April 2nd 1870. Previously the *Herald* had said: "Vast interests are involved in the passage of this Cullom bill, and that man who does not appreciate their magnitude, and the possible consequences of the measure which proposes, by what the New York *Herald* denounced as 'cruel and tyrannous' means, to overthrow the social, marital and domestic relations of 150,000 people against their known religious convictions, had better give heed to them. Utah may, indeed, with all its teeming industries, become 'a scene of desolation,' but if we do not misjudge the condition of affairs, those who would make it such—those who would put the torch to their own households and make ashes of their goods—might not stop here. Omaha, and all this Western country, have a deep stake in this matter, and the Union Pacific Railroad is also vitally concerned in it. The Nebraska delegation in the Senate should never consent to making a law of the Cullom bill. Its passage by the Senate will incur, not the certainty, but the liability, of the destruction of a vast and growing trade and business which it would require twenty years to repair and restore." (*Omaha Herald,* March 30).

18. This remark is justified both by the well known character for determination of President Grant, and also his principles respecting the enforcement of laws, stated in his first inaugural address. He said on that occasion that "he should have no policy of his own, except to carry out the will of the people, as expressed by the legislative department, and expounded by the judiciary." "Laws," said he, "are to govern all alike, those opposed, as well as those who favor them. I know of no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution." Messages and papers of the Presidents, Vol. VII. p. 6.

system. They met Gen. Johnston's army in the mountains, harassed his advance on their strongholds, and, though matters soon came to a point at which warlike operations were stopped, they gave proof of their power to offer formidable resistance, as well as of their willingness to confront any enemy. Previous to that time, when in Nauvoo, they frequently displayed a similar spirit and purpose having their troops always organized and standing always in the attitude of Saints militant and belligerent. In fact, the Mormon Church and army have been "one and indivisible" from the time that they were both organized by the Prophet Joseph Smith.

"We do not believe that any one who comprehends the system and spirit of Brigham Young, as he has kept them up for the last quarter of a century, can doubt that the Mormons are prepared to assume a belligerent attitude, if the principles of Cullom's Bill are enforced against them by military power. . . .

". . . Congress should understand this, and the country should be warned of these things before the passage of Cullom's bill.

"There is danger that, after the circumstances of the case are developed, the Government will be compelled either to back down from Cullom's ground or undertake a "bigger job" than most people have any idea of. If we force them into a hostile attitude, the Mormons can give us a very disagreeable, a very wearisome and tremendously expensive war. Cullom's bill provides for the employment of about forty thousand troops, partly regulars and partly volunteers. The Mormons could give such a force two or three years' fighting, at an annual expense to us of not less than two hundred millions of dollars.

"The Government should not forcibly interfere with polygamy or Mormonism at all. The pacific forces are now in action that will make it impossible for polygamy to exist any great length of time."[19]

These considerations named in the above influential journals of the east and the middle west—and of course these are but samples of many such comments from leading journals of the country[20]—were the potent forces that defeated the Cullom Bill

19. The world article is copied into the Mill Star of Vol. XXXII p. 259.

20. A very large number of press comments of the character of the quotations in the text above will be found in the *Deseret News*—Weekly—for 1870, *passim;* and also in the *Mill. Star* for the same year, (Vol. XXXII). The quotations collected in these periodicals include many of the most influential journals of the United States, such as the *New York Sun, Times, Herald, World,* Cincinnatti *Times,* Springfield *Republican,* Missouri *Republican,* Chicago *Times,* Chicago *Tribune,* N. Y. Journal of *Commerce,* Springfield (Mass.) *Republican* and others. Un-

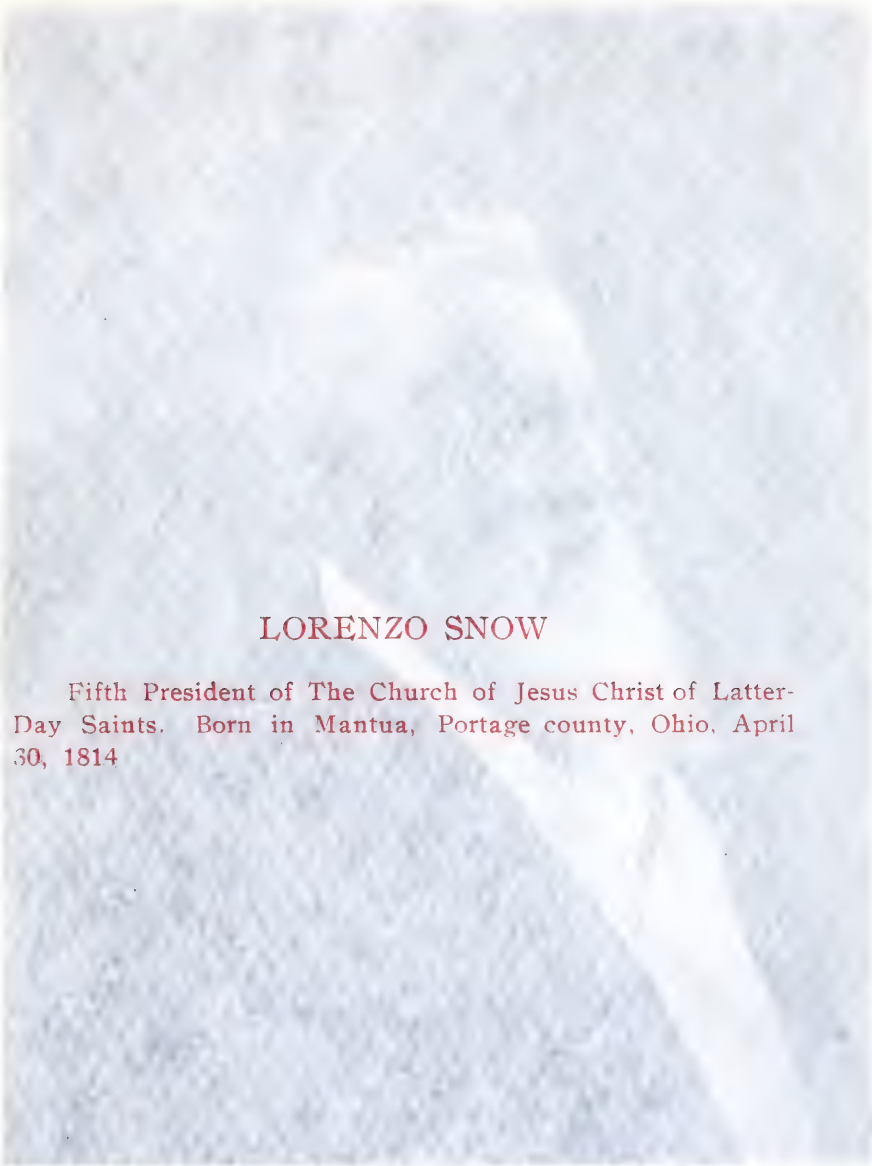
and other extreme legislative measures of the period, and modified the national administration's policy with respect of Utah affairs, far more than any influence exerted by the New Movement leaders. The Church leaders, and the Latter-day Saints of that period, and now also, accord some part of their deliverance—the main and efficient cause of it all, whatever secondary means may have been employed—to the over-ruling providences of God in their affairs. They saw in the wonderful change that came over the spirit of the press, the people and the congress of the United States, another fulfillment of that promise of God that he, from time to time, would soften the hearts of the people, as he did the heart of Pharaoh in the case of ancient Israel, for the accomplishment of his purposes with reference to the New Dispensation of his Gospel in the world.[21]

It should be noted that for some time there had been little or no trouble between the people of Utah and the federal officers of the Territory. After the Territory was rid of the meddlesome Governor Harding—1863; and the equally meddlesome associate Judges, Chas. B. Waite and Thos. J. Drake, of the same period; the succeeding federal officers contented themselves with the regular performance of their duties. Both Governor Doty and Durkee were satisfactory governors; as also were the acting governors, secretaries Edwin Higgins, of Michigan, and S. A. Mann of New York, who filled the interim between the resignation of Governor Durkee in January, 1869, and the arrival of

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der the caption *"What they say about us,"* the *Mill. Star* runs an article in three installments at page 193, 230, 243 of Vol. XXXII, of these press comments, of which the following is the introductory paragraph of the first installment: "Fire and Sword" seem to be the favorite arguments of bigoted parsons, small-beer politicians, wiggling pettifoggers, and scheming speculators, but some other people evidently have a little better sense and little more regard for the public weal. While nearly all the American papers conclude that they do not like Mormonism, the principal of them appear to be favorable to the policy of leaving it to "religious and moral influences." The New York *Tribune* thinks, "the solution of the Mormon problem under these circumstances and influences cannot be long delayed." The New York *Herald* says humanity "demands the intervention of the government either for the peaceable abolition of Mormon polygamy, or for the quiet removal of the Mormon Saints to some other country." The New York *Times* thinks neither legislatures nor armies can possibly be successful in destroying Mormonism, and therefore neither should be employed. The *Times* is decidedly in favor of the moral and religious policy." And so throughout this collection of press comments, the spirit of which is reflected in the foregoing excerpts; not only under the special caption *"What they say about Us,"* but throughout the volume.

21. See Doc. & Cov., sec. cv., 25, 27, in connection with the comments in chapter XCIV of this History, both in the text and in note 19.



LORENZO SNOW

Fifth President of The Church of Jesus Christ of Latter-Day Saints. Born in Mantua, Portage county, Ohio, April 30, 1814



Lorenzo Snow

President Grant's appointee to the office. The judiciary officers, John Titus of Pennsylvania, and Charles C. Wilson of Illinois, chief justices in succession, covering the same period; and S. P. McCurdy, of Missouri, Enos D. Hoge, of Illinois, associate justices, were also satisfactory;[22] as were also the U. S. Marshals Josiah Hosmer and Joseph M. Orr, in succession; and the District Attorneys, Hosea Stout (a Utah man, and a Mormon) and C. H. Hempstead, also in succession, and covering the same period were satisfactory officers.

This brings the enumeration of the principal U. S. officials for Utah up to the inauguration of the Grant appointees in Utah. As might be expected the inauguration of the plans for the "reformation of Utah" which grew out of the Colfax-Bowles-Brassfield-Richardson and Salt Lake "Ring"[23] agitation, called for a different class of U. S. officials than those referred to above, and accordingly a different class of men was appointed. The Grant appointees were, for Governor, J. Wilson Shaffer, of Illinois, a civil war veteran and personal friend of Gen. John A. Rawlins, Grant's first secretary of war. Shaffer had served as chief on General B. F. Butler's military staff during the war and was regarded as a loyal and efficient officer;[24] Vernon H. Vaughn of Alabama was appointed secretary; and James B. McKean, of New York, was appointed chief justice. O. F. Strickland, of Michigan, and C. M. Hawley, of Illinois,

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22. Exception should be taken in the case of associate justice McCurdy who figured so prominently in the Brassfield "wedding," and made so loud an appeal for military protection from alleged threats against himself. See this Hist. Chapter CVI.

23. The "Utah Ring" of this period consisted of those local anti-Mormon agitators who hoped to profit by the conflict they sought to create between the Mormon community and the United States. They were in larger part the lawyers who had flocked to Utah in hope of profitable employment during the land jumping period treated in a previous chapter (ch. cvi); some of the officers of the California volunteers who remained in the Territory after the volunteers were replaced by troops from the regular army; political adventurers who had drifted westward, and merchants and government contractors who hoped to profit by the aforesaid projected conflict. These elements were represented by such characters as R. N. Baskin, who came from Ohio, and became U. S. district attorney by appointment from Judge McKean, and assistant district attorney later; O. J. Hollister U. S. revenue collector; J. P. Taggart U. S. Assessor; Dennis J. Toohy editor and some time partner with O. J. Hollister in the ownership of the Corinne *Reporter;* Frank Kenyon, proprietor of the *Review,* an anti-Mormon paper of brief existence.

24. The Springfield (Ill.) *Republican,* (impression of Dec. 25th, 1870) said of Shaffers appointment: "General Grant appoints him on the strength of personal knowledge of his character and experience."

both appointed in April, 1869, were the associate justices. Judge McKean is said to have come to Utah "with the prestige and experience of an honorable past to lend luster to his local position and light the pathway of duty lying before him. In the Empire State he was the first county judge to be elected by the Republican party in Saratoga county." He was sent to Congress from the district in which he resided, and remained a member of the house of representatives until after the beginning of the Civil War. "In 1862 he resolved to take the field and fight for the Union," says a biographical sketch of the judge. "Accordingly he raised the Seventy-seventh New York Volunteers, of which regiment he was chosen Colonel. He took an active part in the Peninsular campaign, but owing to serious illness, which came nigh terminating his life, was compelled to resign the colonelcy of his regiment. Having recovered his health, he practiced law in New York City, and was still pursuing his profession in the metropolis when he received his appointment as Chief Justice of Utah."[25]

25. The above quotations are from Whitney's History of Utah, Vol. II, p. 543. "James B. McKean was a native of the State of Vermont, and was born in 1821. His father was a Methodist clergyman. Much of Judge McKean's life was spent in the State of New York, and when he arrived in Utah, direct from the Empire State, he was forty-nine years of age." Id. A biographical sketch of McKean by Mr. Fred Lockley, an admirer of the chief justice, will be found in Tullidge's *Quarterly Magazine* for April, 1882, (Vol. II, pp. 79-85). It appears that not only was the chief justiceship of Utah unsought by McKean, but he was reluctant to accept the position when it was tendered to him by President Grant—or was his reluctance assumed in order to get the pledge of military support from President Grant? The conspiracies of those days respecting Utah, Judge McKean's subsequent desperate course, and the frequent mention of using military force in Utah by President Grant himself, tempt one to believe that was the case. The following is from Lockley's biographical sketch above alluded to, let it be considered with reference to the suggestion here made as to the reluctance of accepting the position of chief justice being assumed in order to force the pledge of military support.

"He kept the matter [of his acceptance of the chief justiceship] under advisement for two months, and in August repaired to Washington to confer with the President on the matter. Thanking the great chieftain for this distinguished mark of confidence Judge McKean gave his objections to accepting the office. The laws were not enforced in Utah, and the federal judiciary held an anomalous position. 'I am a man of positive character, Mr. President,' said the Judge, 'and in my endeavors to perform my duty in Utah I may become embroiled with the Mormons. No means exist there to execute my decrees, and thus I may stir up trouble to no purpose, and bring humiliation upon myself.'

"The President listened to this reasoning with his customary immobility, and then he urged the acceptance of the office upon his visitor. He said he had chosen the Judge because of his firmness of will. He designed to have the laws enforced in Utah, and would send judicial officers with nerve and honesty enough to do it. 'Go there,' he said, 'and make the laws respected. If your associates do not sustain you, I will choose men who will; and if civil process will not restrain lawlessness, I will support you with the army of the United States.' This assurance removed

"He was appointed at the instance of Dr. Newman," according to the Pittsburgh, Pa., *Leader,* "who openly expressed his desire that the Mormons should be 'rooted out,' by any and all means."[26] He succeeded Judge Charles C. Wilson who had been dismissed from office for too great leniency toward the Mormons in the matter of granting them naturalization rights,[27] and because he was not in harmony with the new regime inaugurated, in Utah.[28] M. T. Patrick was appointed U. S. Marshal, and Geo. C. Bates of Illinois, U. S. District Attorney.

Judge McKean's misgivings. 'Coming from a soldier,' the deceased [the Judge was then dead] has several times said, 'I supposed it amounted to something.' He accepted the position, withdrew from his business in New York, and lost no time in coming to Utah."

26. Impression of March 17th, 1875, quoted in *Mill. Star,* Vol. XXXVII, p. 283.

27. According to a Washington Correspondent of the Cincinnati *Commercial,* "Judge Wilson, having learned of his removal, went to Washington, and with congressman Hawley called on the President." According to *Don Piatt,* the aforesaid correspondent, there was a good deal of "smoke" about the visit, coming from the direction in which President Grant was seated. The annexed is part of what is said to have passed at the interview: "He would like as his friends would," said Hawley, "to know the ground of his removal." His Excellency said with evident effort, "Governor Shaffer wished it." "Why?" "Because he says Judge Wilson is in the habit of naturalizing applicants who come in from other districts." Hawley looked at the Judge, and the Judge made reply: "I may have done so; I do not know. But if I did, it is because my district is the only one in which Court is held. All the law business of Utah is transacted at Salt Lake City. Courts are held not more frequent nor longer than one day in a year, in the other districts. There is no law prohibiting their coming." "But," said his Excellency, after a long pause, "Gen. Shaffer charges that you do not put the test oath to the applicant." "What is that?" "As to his being a Mormon or believing in polygamy." coolly said the President. "I certainly have not; I am not authorized by law to make any such test. The questions I have to ask are prescribed in so many words, and I could as well ask a man if he had ever stolen horses, or believed in horse stealing, or refuse administering the oath because the applicant was not sound on infant baptism or second marriage. I went to Utah to administer the law, not to make, nor, above all, to break, the law. If Judges are needed, in accordance with Governor Shaffer's wishes, to perjure themselves by violating the law they have sworn to sustain, it is well to get me out of the way." (The Commercial article is copied into the S. L. *Herald,* Vol. I, No. 14). The *Commercial* article was sent to Judge Wilson by Delegate Hooper, and in the letter acknowledging receipt of same he said—"All of which is very good" (though claiming that some parts of his quoted remarks were "highly colored,") but I do not know that it will do any damage. "I saw and heard enough while at Washington," he continues, "to satisfy me that Grant, Buttler, Shappet and Co. are determined to bring on a war with your people, not from any pure or humane motives, but simply to, if possibly, make capital for some of those political buzzards. To all of which I am greatly and violently opposed." Letter to Hooper, June 23, 1870, Hist. of Brigham Young Ms., p. 1009, 1870.

28. "Chief Justice Wilson was removed, and his friends sought to know the reason of his removal, and were answered by the 'National Executive' that 'Gen. Shaffer's *staff* must be a unit.'" ("Answers to Questions," Geo. A. Smith, pp. 63 and 67).

Such were the Grant appointees and with their advent the Utah stage was once more set for a religio-political drama—a renewal of the old conflict for the right of local self-government as against federal encroachment upon that right, a conflict with which Utah had been plagued from the commencement of her existence.

After his appointment Governor Shaffer had remained in Washington for some time hoping for the passage of the Cullom Bill by the senate which would have conferred upon him very extraordinary powers, by which the local Territorial government would have been practically abolished; but in this the Governor was disappointed. Meantime, during the winter of 1870, the Territorial legislature met and Territorial Secretary, S. A. Mann, acting-Governor, signed the bills that were passed. Secretary Mann was a very acceptable governor to the people. He refused absolutely to be controlled by the "ring of hungry agitators;" acted upon his own judgment, and united with the legislature in the passage of a number of measures beneficial to the Territory. Among these was the passage of a code of civil practice; a general incorporations act was passed under which industrial and commercial companies could be organized. An *ad valorem* tax of one-half of one *per centum* being found more than necessary to sustain the expenses of the Territory, it was reduced to one quarter of one *per centum* for Territorial purposes, while the counties were authorized to increase their tax from one-half of one *per centum* to three-fourths, "under extraordinary circumstances." "This provision," says Geo. A. Smith, who was President of the council of the legislature that year—and for five previous sessions—"left ample means for all Territorial purposes and placed a greater portion of the responsibility of repairing and building bridges and roads, which heretofore devolved upon the Territory, upon the counties."[30] It would seem as if special preparation was being made for the coming political conflict. All the Territorial expenses of the district courts were paid up to date, and a contingent fund of $4,000 was appropriated to be expended by the Territorial marshal

30. Answers to Questions, pp. 61-2.

for the future expenses of those courts; the Territorial officers (elected by the legislature under the laws of Utah, to be commissioned by the Governor) Auditor, Treasurer, Probate Judges, Notaries-public, were elected for four years, and commissioned by acting-Governor Mann.[31] The city of Corrinne was incorporated, embracing a tract of about 2,500 acres of land on the north side of Bear river. A bill was also passed and signed conferring the right of the elective franchise on women.

About a year previous to this it looked for a time as if suffrage would be conferred upon the women of Utah by congressional enactment. On the 27th of February, 1869, professor J. K. H. Wilcox appeared before *Messrs.* Ashly of Ohio, Cullom of Illinois, and Hotchkiss of Connecticut, of the house committee on Territories, on behalf of "the Universal Franchise Association," and advocated the passage of a bill for the extension of the suffrage to the women of the Territories. It was claimed in the address delivered to the committee and a number of invited guests, mainly ladies, that the unequal distribution of the sexes in the nation, "with its attendant evils of low wages and lives of ill fame, would be much lessened by enfranchising the women of the Territories." Moreover, it was urged that granting the franchise to women of the Territories would give them greater security in person and property than existed elsewhere, and this would induce the emigration of women from "the over crowded east." As to its effect in Utah—well, polygamy only existed where women were "degraded." "How then could women be elevated?" Answer: "By giving them additional power, and by this means polygamy would be destroyed.[32]

This suggestion "took," with some of the statemen at the nation's capital, and in the latter part of March the press dispatches announced that Mr. Julian, a member of the house from

31. *Ibid*, p. 62. In a letter to delegate Wm. H. Hooper the President of the Council of the legislature under date of Feb. 19th, 1870, said: "The Legislature closed its session this morning at four o'clock. The relations, with the Governor, were of the most cordial character; he exercised the absolute power of veto in only two instances; neither of the bills vetoed, were of first importance. * * * * We have come to the conclusion that the Governor is really a *Man* [play on Mann]. And instead of being influenced by the ring—hungry agitators, he has exercised his own judgment in his relations with the Legislative Assembly, and no session has gone off more pleasantly since Governor Young's administration terminated."

32. Washington *Chronicle* February 28th, 1869.

the State of Indiana, introduced a bill conferring the franchise upon the women of Utah, and seemed somewhat surprised to find the Utah delegate, Mr. Hooper, to be heartily in favor of his measure.[32½]. The next day Mr. Pomeroy, of Kansas, introduced a similar bill in the senate of the United States.[33] Allowing that the *Deseret News* represented the views of the people of Utah on this subject of the elective franchise being granted to the women of Utah, they were much elated at the prospect; for three editorials appeared in quick succession, urging the passage of these bills. So urgent in fact did these editorials represent the people of Utah to be, and so willing was their delegate in congress to have the bill pass, that congress grew suspicious and lost interest in this method of "suppressing polygamy."[34] The bills never came to a vote in either house of Congress. But what Congress refused to grant to the women of Utah, the legislators of the Territory decided to give, and accordingly passed the enfranchisement bill which was signed by acting Governor Mann as already stated. A delegation of women from a meeting in the Fifteen Ward Society Hall waited upon the acting-Governor and for themselves, and in behalf of the women of the Territory, tendered their thanks and grateful

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32½. *A Bill to Discourage Polygamy in Utah,* was the title of Mr. Julian's Measure. On its presentation Mr. Hooper said: "That bill has a high sounding title. What are its provisions?" Mr. Julian replied simply a bill of one section providing for the enfranchisement of the women of Utah. "Mr. Julian," said the delegate from Utah, "I am in favor of that bill." He inquired, "Do you speak for your own leading men?" Mr. Hooper replied, "I do not; but I know of no reason why they should not also approve of it."

33. See press dispatches in Deseret News—Weekly—of March 31st, 1869. Congressional Record—

34. The dispatches announced Julian's bill—"A Bill to Discourage Polygamy." In the Editorials referred to in the text above it was said of Mr. Julian's bill: "The bill proposes to check polygamy in this Territory to give suffrage to the women. We like this suggestion. If carried out, and if it should work as its originators hope it will, it would be a very easy method of settling this vexed question, and without the fuss and trouble which have heretofore attended the various schemes that have been proposed for that object; but if the ladies should exercise the right of suffrage and yet not discourage nor break down polygamy, then members of Congress would, perhaps, be satisfied to let the question rest, and to cease troubling themselves about an institution which those who are most affected by it hold as every way preferable to the monogamic institution. * * * In either case the passage of the Bill might be attended with satisfactory results, and, therefore, as an earnest advocate of Woman's Rights, we go in for it, and say let the ladies of Utah have the right of suffrage." (*Deseret News*—Weekly—of Dec. 9th, 1869). About four months previous to this the *News* expressed itself as being in favor of suffrage: See *Deseret News*—Weekly—of Dec. 9th, 1868.

acknowledgments for the honor conferred upon the women of Utah by the enfranchisement act.[35]

Mr. Mann replying expressed the hope that the ladies would "so exercise the right conferred as to approve the wisdom of the legislation."[36] Acting Governor Mann was the first executive to sign a suffrage bill in the United States; for though the Wyoming bill enfranchising the women of that Territory became a law on the 10th of December, 1869, more than two months before the Utah act was approved, the governor of that Territory, John A. Campbell vetoed the measure on the date above given; however, it was passed over his veto, and became a law being "cordially approved by the (federal) government."[37]

Governor Shaffer at Washington viewed the course of acting Governor Mann both in commissioning the officers elected by the legislature and signing the woman suffrage bill with growing irritation. To delegate Hooper he declared his intention to telegraph the acting governor to veto it; but this was not done, doubtless recognizing the futility of such an act if Mann was determined in the matter.[38]

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35. The names of the delegation were as follows: Eliza R. Snow, Bathsheba W. Smith, Sarah M. Kimball, Margaret T. Smoot, Harriet C. Young, Zina D. Young, Mary Q. Horne, Marinda N. Hyde, Phebe C. Woodruff, Elizabeth H. Cannon, Rachel I. Grant, Amanda Smith, Amelia F. Young, Prescendia H. Kimball. (*Deseret News*—Weekly—of March 2, 1870.

36. *Ibid.* Of the meeting of the delegation of women with the acting Governor Geo A. Smith wrote delegate Hooper that "the ladies said they thought the Governor was about as much embarrassed as they were" (Letter to Hooper, Feb. 19th, 1870, Hist. Brigham Young *Ms.* 1870, p. 310). Mann doubted the wisdom of granting the suffrage to women but signed the bill in deference to the unanimous vote of both branches of the legislature on the subject. See official communication to Orson Pratt, Speaker of the House, *Deseret News*—Weekly—of Feb. 16, 1870. Commenting upon the probable effect of suffrage on polygamy in Utah, and on Utah affairs generally, the *News* said editorially: "As for ourselves, we have no doubt as to the result, and are satisfied that it will strengthen the cause of Zion, polygamy included. . . . On the plural marriage question we are as firmly convinced as we are of our own existence that were its continuance or abolition put to the vote of the female portion of our population today, it would be sustained by a nine-tenths majority; and upon this score, which has enlisted the mock sympathy of so many, no disadvantage to Zion's cause will ensue. In every other way it cannot but result also in good. The New York *Globe*, of the 14th of February, said: "A morning dispatch informs us that the women of Utah vote today, since female suffrage has become a law in that Territory. . . . That the women of Utah will to-day vote to abolish polygamy, we do not expect. They are as much in favor of that system as the men. It is wrong to expect this of the women of Utah, and it will be unfair to call female suffrage a failure if they do refuse to abolish polygamy."

37. Bancroft's Hist. of Wyoming, p. 747; Whitney's Hist. of Utah, Vol. II, p. 403, *note*, also Editorial in *Deseret News* of Feb. 16, 1870.

38. Tullidge's Hist. Salt Lake City, p. 480. Tullidge represents that Shaffer did not send this intended telegram because delegate Hooper treated as a hoax the

Governor Shaffer arrived in Salt Lake City on the 20th of March. It is not too much to say that he came prepossessed with great prejudice both against the people of Utah and the Latter-day Saint Church leaders. The large influence of President Brigham Young was a constant source of annoyance to the governors and other U. S. officials in Utah. It entered into common parlance that "so and so was governor of the Territory, but Brigham Young was governor of the people." "Never after me, by G—d! shall it be said," boasted Shaffer, on receiving his appointment, "that Brigham Young is governor of Utah;"[39] and he came determined to make this assertion good.

On arriving in Utah he was surrounded by a horde of hungry office seekers, disappointed by the failure of the Cullom bill which would have placed nearly all the offices of the Territory within the gift of the governor,[40] and supplied them with the much needed occupation to keep body and soul together. "The Governor took quarters at the boarding house of William H. McKay, of whom he spoke "as an old friend," says Geo. A. Smith; and McKay's "boarding house became the headquarters of the 'Ring' during a great part of Shaffer's brief administration; and this hungry horde surrounded his Excellency so continuously that it was weeks before an 'old citizen' could get an audience; and even then it was at a place, in company, and under circumstances not calculated to give his Excellency any

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press dispatch telling of the passage of the bill by the Utah legislature. That would put delegate Hooper in the attitude of deceiving the appointed governor and represents Shaffer as being altogether too credulous. The law made the secretary of the Territory acting-governor, in the absence of the governor, and the absent governor could not effectively govern by telegraph. Shaffer was helpless in the matter if Mann was determined, hence the uselessness of telegraphing.

39. Hist. of Salt Lake City, Tullidge—p. 480.

40. Under the Cullom bill as it passed the house the U. S. Marshal was authorized to appoint a deputy in each of the judicial districts; the U. S. district attorney was authorized to appoint an assistant in each of said districts; the governor was made inspector of the jails and other prisons of the Territory, to make rules for them, remove the wardens and keepers, and appoint others, "as often as, in his opinion, the public good shall require:" also by section 23 the Governor was authorized to appoint all probate judges, justices of the peace, judges of all elections, notaries public; all sheriffs in said Territory were to be appointed by the Governor and were subject to removal by him. (See Cullom Bill as it passed the house, in *Deseret News*—Weekly—of March 30th, 1870). In view of the proposition to throw all the appointments into the hands of the Governor, the number of expectant anti-Mormon men who had flocked to Utah was considerable.

correct understanding or appreciation of the actual condition, wants, and situation of the people he had come to govern."[41]

The Governor attended the annual conference of the Church, held that year from the 5th to the 9th of May.[42] His Excellency had received a formal invitation from President Young to attend and he was present on the stand at one of the meetings, and invited to address the people, but declined the honor.[43]

This conference was notable for two things: the large attendance upon its sessions—it was estimated that 13,000 were present on Sunday the 7th; and for the absence of any criticism or comments upon the threatening attitude of the administration. "A spirit of serene calmness, of implicit faith in God was manifest in all the utterances from the stand. Our people have been often threatened," was the *New's* comment upon the conference and of the likelihood of disagreeable occurrences happening, "but at no previous time has there been so universal feeling of

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41. Answer to Questions p. 62. Also *Deseret News* of Nov. 2nd where it is said: "Since his (Gov. Shaffer's) sojourn in our midst he has kept himself aloof, almost entirely, from the people, he being seldom seen in public on any occasion. The *News* also says that this was largely due to the Governor's state of ill health. The Governor was most unfortunate in the selection of his headquarters; that this is true, and that the comments of Mr. Smith on the Governor's course and surroundings are just, it is only necessary to show that the place was headquarters of a set of highway robbers, of whom the proprietor of the "boarding house" was chief. On the night of the 23rd of October, 1870, the stage coach from Pioche Nevada, was robbed about four miles north of Chicken Creek (between Lavan and Nephi) in Juab county. The treasury box of Wells Fargo & Co., was broken open and emptied, the registered mail sack taken and the passengers robbed of about $1,500. Three men perpetrated the daring robbery. The matter being reported at Nephi the sheriff of Juab county, Mr. Cazier, organized a *posse* and the day following the robbery captured the perpetrators of it, who turned out to be William H. McKay, late proprietor of the "Revere House," where the Governor made his head quarters; one St. Ledger, "a man about town," in Salt Lake City; and one Heath, formerly a U. S. Soldier. The money taken by the robbers was all recovered. (*Deseret News*—Weekly—Nov. 2nd, 1870). The Robbers were turned over to the U. S. officials. St. Ledger turned State's evidence, and was released; Heath escaped, and McKay was tried in the U. S. Court, convicted and sentenced to five years' imprisonment. This was the first mail coach robbery that occurred in the Territory. (Geo. A. Smith's "Answer to Questions," p. 63). The incident is described in the New York *World* by one of the victims of the robbers, who gives high praise to the Mormon officers who captured the outlaws and recovered the booty. (See *Mill Star,* Vol. XXII pp. 3-6).

42. The annual conference met in the Tabernacle, in Salt Lake City on the 6th of April, but after one session adjourned until the 5th of May. This action was taken owing to the gallery, then in course of erection in the Tabernacle, not being completed, and the absence of President Young in the southern settlements.

43. Letter of Geo. A. Smith to Hon. J. S. Harris, under date of May 8th, 1870. Hist. Brigham Young, Ms. for 1870, pp. 834-5.

indifference respecting the machinations of the wicked as prevails now in this community.[44]

Soon after Governor Shaffer arrived in Utah, the question of commissioning some of the officers elected by the legislature previous to his arrival came up and he refused to commission them. Whereupon threats were made of suing out a writ of mandamus to force his action. Shaffer asked chief justice Wilson if he would issue such a writ. "Certainly" said the justice, "if a case were made out." "Well, now," exclaimed the Governor, "I like that! I am sent here to regulate things and I am to be controlled by a judge." "I beg pardon, Governor," answered Justice Wilson, "it strikes me you are to be controlled by law."[45] The Governor also undertook to prescribe the duties of the probate judges. "I instructed them," said chief justice Wilson, "to disregard his rules and consult the law as to their duties. Whereupon he swore to remove me, and removed I am."[46] The removal of Wilson occurred in July. This made way for the appointment of Judge James B. McKean. About the same time—July—the secretary of the Territory Mr. S. A. Mann was removed and was succeeded by the appointment of Vernon H. Vaughn.[47]

The one event which more than all others made Shaffer's brief administration memorable occurred on the 15th of September. The Utah militia, under the title of the "Nauvoo Legion," for eighteen years, ever since its reorganization by the Utah legislature by an act approved March 6th, 1852[48]—had met in annual

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44. See *Deseret News* of May 11th, 1870, editorial, p. 162. The minutes of the conference are published in the same impression.

45. The incident and dialogue is published in the Salt Lake *Herald* of June 21st 1870.

46 *Ibid.* "What is his [Shaffer's] purpose, do you suppose," asked *Don Piatt* of the Cincinnati *Commercial*: "To provoke a collision between the United States officials and the Mormons so as to justify a call of troops and force on a war." (Id.)

47. It appears that a Mr. Crowe was appointed to be Utah's Secretary, but he died the day following his appointment, and Mr. Vaughn was the next nominee. Delegate Hooper speaks of "Secretary Crowe" as a "galvanized rebell." He served as a colonel in the confederate army; but congress had removed his political disabilities. (See Letter of Delegate Hooper to Geo. A. Smith, in Hist. of Brigham Young, *Ms.*, 1870, p. 949).

48. Of course a military organization existed in Utah before 1852, from 1849 in fact; and afterwards, the provisional state of *Deseret* directed the organization of the "Nauvoo Legion" according to plans reported by Daniel H. Wells and Charles C. Rich. (See this History ch. LXXIX). But the act of 1852, was the organization effected under the authority of the Territory of Utah.

musters; and in accordance with this custom Lieutenant General Daniel H. Wells, 16th of August, 1870, issued the usual order for a three days' muster "for the purposes of drill, inspection and camp duty.[49] A month later, namely, on the 15th of September, Governor Shaffer, arbitrarily setting aside the Territorial law governing the election of the Lieutenant General of the Utah militia, and falsely citing the laws of the United States as authority for his action, appointed and commissioned P. E. Connor, Major General of the militia of Utah Territory, and Wm. Johns, Colonel, and Ass. adjutant-general.[50] On the same date he issued a second proclamation forbidding and prohibiting "all musters, drills, or gatherings of the militia, and all gatherings of any nature, kind or description of armed persons within the Territory of Utah," except upon his orders, or by the orders of the U. S. Marshal, should he need a *posse commitatus* to execute any order of the court, "and not otherwise." Also ordering that all arms, or munitions of war belonging to either the United States or the Territory of Utah, now in possession of the Utah militia be delivered to "Col. Wm. M. Johns, Ass. Adjt. General; and should the U. S. marshal need a *posse commitatus* to enforce any order, he must make the requisition of "Gen. P. E. Connor, who by this proclamation has authorized to call out the militia for said purposes, and not otherwise.[51]

On the 20th of October General Wells addressed a communication to Governor Shaffer, referring to his proclamation, and calling attention to the fact that neither the terms of his proclamation," "nor the laws of the Territory, nor the laws of congress, requiring reports of the force and condition of the militia of the Territories, could be complied with, and therefore respectfully asked for and in behalf of the militia of said Territory that the Governor suspend the operation of his proclamation until the 20th day of November. To this suggestion the governor made a very caustic reply, not only denying the request, but manifesting the bitterness of his hatred for the Mormon Church leaders, altogether out of place in an official document. A few

49. The order complete will be found in *Deseret News*—Weekly—for August 31st, 1870.

50. For the proclamation in full, see Salt Lake *Herald* of Sept. 17th, 1870.

51. *Ibid*, for the Proclamation in full.

hours after the reply to his letter had been received by General Wells, the entire correspondence was in print. Which makes it clear that the answer was made especially with the view of its publication, and for the effect that it would have on public opinion outside the Territory—it was written for consumption "abroad." The closing paragraph of the Governors letter expressed the hope that what he had written would be "sufficiently explicit to be fully understood, and supercede the necessity of any further communication on the subject." But here Governor Shaffer demonstrated the fact that he did not understand the character or capacity of the man with whom he was dealing. Further direct personal communication with Governor Shaffer was of course ended by the latter's request that it be so; but there was left to General Wells an appeal to the same court that Governor Shaffer himself had appealed to by the publication of the entire correspondence, *viz.*, the court of public opinion; and to that court General Wells addressed himself in a very effective open letter to the Governor. As the correspondence marks in effect the end of the "Nauvoo Legion," and since said Legion has been so conspicuous at various times in the history of the Church of the Latter-Saints, it is only proper that the main points of it be summarized.

Summary Governor Shaffer's Letter

1. The Governor notes that Wells signs himself "Lieutenant General, commanding the militia of Utah Territory;" and as the law of the U. S. provides for but one Lieut.-General, and as the incumbent of that office is "The distinguished Philip H. Sheridan," the Governor thinks—sarcastically—"that he will be pardoned for recognizing no other."

2. In Gen. Wells' communication the Governor had been addressed as "commander-in-chief of the militia of Utah Territory." This, the Governor claimed, was the first instance in twenty years—ever since the organization of the militia by Territorial enactment—that either General Wells or any of his "predecessors in the pretended office," had recognized the Governor to be, as the organic act makes him, the commander-in-

chief, etc. "I congratulate you," said the governor—again sarcastically—"and the loyal people here, and elsewhere, on the significant change in your conduct."

3. By asking for the suspension of the operation of his proclamation, General Wells had virtually asked the Governor to recognize "an unlawful military system, which was originally organized in Nauvoo, in the state of Illinois, and which has existed here without authority of the United States, and in defiance of the federal officials."

4. The request to suspend the Governor's proclamation forbidding the muster, drills, and inspection of the militia, permitting in the meantime the ordered annual muster to take place, in order to comply with certain laws of congress and of the Territory, was to present the absurdity that the Governor's proclamation could not be carried out unless he permitted the general to violate it.

5. "Mr. Wells" knew as well as the Governor did that the people of the Territory had been taught to regard "certain private citizens in Utah as superior in authority, not only to the Federal officials here, but also at Washington." Ever since the Governor's proclamation forbidding the muster, "Brigham Young, who claims to be and is called 'President,'[52] on a public occasion and in the presence of thousands of his followers—"denounced the federal officials of the Territory with bitter vehemence; while another prominent Church leader, on a like occasion and in the presence of Brigham Young, had questioned the right of the existence of the whole Territorial system, called it a relic of colonial barbarism, and had said that none of the federal officials had any right to come to or remain in Utah.

6. "Mr. Wells" in effect asked the governor to aid him and his "turbulent associates" to convince their following that "Mr. Wells" and his associates were "more powerful than the federal government." The Governor must "decline." To suspend

52. If there were no other evidence that this letter was written not only to influence, but to mislead the public mind out side of Utah, this inferred use of Brigham Young's official title in the Church—"President" Brigham Young, or "Brigham Young, President of the Church of Jesus Christ of Latter-day Saints," would be proof sufficient; for the above use of it by Gov. Shaffer is meaningless if he does not imply that the office of "President" means an usurpation of civil authority.

the operation of his proclamation would be a greater deriliction of duty than not to have issued it. Without authority from the Governor "Mr. Wells" in his "assumed capacity" of Lieutenant-General had called the militia to muster, and now virtually asked the governor to ratify the action. "Sir," said he, I will not do any thing in satisfaction of your officious and unwarranted assumption. By the provisions of the Organic act, the Governor is made the commander-in-chief of the militia of the Territory," and so long as he (Shaffer) held that office "a force so important as that of the militia shall not be wielded or controlled in disregard of his authority, "which by law, and by my obligation, it is my plain duty not only to assert, but, if possible, to maintain."

General Well's Answer to Governor Shaffer

1. On the question raised by Governor Shaffer that the laws of the U. S. provide but for one Lieutenant-General; that General Sheridan fills that position; that Shaffer will recognize no other—Wells answered that the same law of congress which provides for but one Lieutenant-General provides for five major Generals. Must we therefore conclude there shall be no major generals of militia in the states or Territories? The same law provides that there should be eight brigadier-generals, are we therefore to conclude that there are to be no brigadier generals in the militia of the states and Territories? An act of congress approved July 28th, 1866, limiting the number of certain officers in the army, directed that there should be no new appointments in the adjutant-general's department; if these laws respecting officers in the regular army are to be made applicable to militia officers in the Territories, how will the Governor reconcile this with his recent appointment of W. M. Johns as assistant adjutant general in the militia of Utah? Another law of congress passed in 1844 (section 2) provides that all general officers of militia "in the Territories shall be elected by the people, in such manner as the respective legislatures thereof shall provide." The Utah legislature of 1857, had provided by law that "the lieutenant-general of the Utah Militia shall be elected by

the people''[55] and Daniel Wells had been so elected—then how could Governor Shaffer appoint P. E. Connor to be Major General of the Utah militia without a violation of both the law of congress—for which his Excellency seems to have such respect''—and the law of the Territory?

2. Answering to the charge that General Wells and his ''predecessors in the pretended office'' of Lieutenant-General had now for the first time recognized the Governor of the Territory as ''commander-in-chief of the Utah militia,'' the General informed the Governor first that he had held the office from the time it had been created by the Utah legislature in 1852; that he therefore had no ''predecessors.'' It would not be denied that he recognized Brigham Young as commander-in-chief of the militia of the Territory, also Alfred Cumming and his successors ''up to the present time,'' for which fact—except only in the case of Governor Dawson, who had remained in the Territory but thirty days—he had abundance of documentary evidence, and he produces documents from Governor Frank Fuller, and Governor H. S. Harding, in which such recognition had been given.

3. Relative to the charge that the Utah militia was an unlawful military system imported from Illinois, etc., General Wells pointed out that it had been created by legislative enactments under authority granted to the Territorial legislature by Congress; and even if, as a system, it had been ''transported'' from Illinois ''can no good thing come out of Illinois?''[56] Or is it such a crime to copy after anything emanating from that distinguished state?

4. Relative to the request for the suspension of the Governor's proclamation until the 20th of November it had been made not to nullify the proclamation or the law, but that the fall musters might be completed—''they having been held in some of the dis-

55. See "Laws of Utah"—from 1851 to 1857—published 1870, chapter CXXXVII, p. 190. Previous to this, the Lieutenant General had been "elected by a majority of votes given of the commissioned officers of said Legion, and commissioned by the Governor," (See Act approved Feb. 5th, 1852), "Acts Resolutions" etc., of the legislative Assembly of Utah, 1852, p. 144). General Wells had been elected Lieutenant General under this law, as well as later under the law requiring that such officer be elected by the people.

56. When it is remembered that Gov. Shaffer himself was from Illinois the question receives additional point.

tricts''—in order that the request of the War Department made through the Adjt. General's office at Washington, D. C., for the annual return of the militia of Utah Territory, might be complied with. How this could be construed into an attempt to nullify the laws of Congress, escapes the General's penetration. That there is any conflict between the laws of the Territory and the laws of congress in this matter is incapable of proof.

5. As to the public meetings, and the utterances there made, General Wells could only say that public officers, ''federal officials'' included, are supposed to be public servants, so far as their official acts are concerned, and subject to the scrutiny of the people. Every one under our government has the right to free speech, and to express his opinions concerning the acts of public officers—a right indulged in by all parties.[57]

6. Relative to the Governor's practical assertion that there should be no militia in Utah, only such as he should approve, General Wells made answer: ''I am of the opinion that the people of the Territory, according to the Constitution, have the right to bear arms—that the Legislative Assembly had the right to organize the militia—that Congress had the right to declare that the general officers should be elected by the people in such a manner as the respective legislators of the states and Territories may provide by law; that the Governors of the states and Territories are the commanders-in-chief of the militia, the same as the President of the United States is commander-in-chief of the armies and navies of the United States, with generals and admirals under him commanding; that the military organization of our Territory follows that of the federal government more closely, perhaps, than that of any other Territory or state in the Union; and that governors and commanders-in-chief are as much the creatures of law as any other officers, and

57. It was a strange attitude of mind on the part of Governor Shaffer that made criticism of federal-officials, and questioning the Americanism of the Territorial system, an offense; and reveals the effect of the Governor's military training under Gen. Buttler at New Orleans. Commenting on the course of the Governor in this militia matter the Elko *Independent* remarked: "Governor Shaffer served on Ben Buttler's staff in the south *and seems to imagine he is yet in New Orleans.*" (Copied into Salt Lake *Herald*, of Sept. 23rd, 1870).

while they exercise a higher jurisdiction, they are as amenable to law as the humblest officer or citizen.'"[58]

As already stated the action of Governor Shaffer practically ended the existence of the "Nauvoo Legion;" yet a few other items followed in connection with it that are of historical interest. Under date of 12th of November Daniel H. Wells—still in his capacity of Lieutenant-General, and ignoring the appointments made by Gov. Shaffer (by then deceased)—issued general orders No. 2, stating that so far as the general musters in various military districts had not already been held, as contemplated in general orders No. 1, of August 16th—"they are hereby postponed until further orders." And that was the final order given to the Legion by its Lieutenant-General; but congress seven years later determined that it should also cease to exist by law, and accordingly seventeen years later, in section 27 of what is known as the "Edmunds Tucker Law," declared "that all laws passed by the so-called state of Deseret, and by the legislative assembly of the Territory of Utah for the organization of the militia thereof, or the creation of the Nauvoo Legion, are hereby annulled and declared of no effect."[59]— And so the "Nauvoo Legion" ceased to exist in law as in fact. At the time it went out of existence it numbered about 13,000 men, most of whom were efficiently armed, drilled, and equipped, as required by law. Of officers beside its Lieutenant-General, there were two major-generals, nine brigadier-generals, and twenty-five Colonels with their respective staffs.

Their annual musters, drills and inspection had continued through eighteen years, and reports and returns made to the authorities at Washington as required by the act of congress, approved March 22nd, 1803. The Legion had been organized at Nauvoo as an "independent body" of the state militia of Illinois, under provisions in the Nauvoo charter, the purpose

58. The correspondence in *extenso* will be found in *Deseret News*—Weekly—for the 2nd of Nov., 1870; also in *Mill. Star*, Vol. XXXII, pp. 753-5; and 771-773.

59. See Compiled Laws of Utah, 1887, pp. 108-125. This congressional enactment became law without the approval of President Cleveland. The organization of the militia for the Territory authorized by the Edmunds Tucker Law which provided that all the general officers of the militia should be appointed by the Governor by and with the consent of the council of the legislature, was never put into effect.

being to provide a means for the Latter-day Saints to perform such military duties as the law of the state required in a body made up principally of their own people, and also to place under the direction of the Mayor of Nauvoo—for the ordinance passed under the grant of power in the Nauvoo charter placed the Legion at the disposal of the Mayor of Nauvoo as well as of the governor of the state—an efficient force to protect the city against the constant threats of invasion from Missouri.[60]

Necessarily the Legion was under suspension during the years of the exodus from Illinois and the journey across the plains and mountains to Salt Lake valley; but the settlements effected in that and adjacent valleys, and in the midst of strong tribes of Indians, the need of a military organization was soon felt and naturally the Legion as it existed in Nauvoo constituted the frame work of the western organization. This by legislative enactment by the provisional state of Deseret; and, as previously detailed, under the authority of that state the Legion conducted three successful expeditions against the Indians; and later in the Territorial days was a constant means of protection against Indian depredations, its readiness and efficiency being the guarantee of peace to the Mormon settlements—western outposts of American civilization. In the troubled years of 1857-8, the Legion had successfully halted the approaching army of the United States, until the country could take the second, sober thought respecting Utah affairs, and settle by a peace commission what the government had undertaken to settle by an armed expedition. In the southern Indian wars in the years 1865-6-7—the Legion rendered both the Territory of Utah and the United States efficient services; for while United States troops in sufficient force to suppress the hostile Indians were stationed at Camp Douglas, within two miles of Salt Lake City, and both the Indian agents and the non-Mormon governor of the Territory petitioned the U. S. army authorities for the service, they were unfeelingly told that the Territorial militia—the Nauvoo Legion—must be depended upon to make the Indians behave. The result was that through three years the Nauvoo Legion conducted campaigns against hostile Indians and preserved the southern set-

60. See this History ch. XXXVII.

tlements of Utah from destruction, at a cost of more than one million five hundred dollars, for which the Territory was never reimbursed.[61] All-in-all the Latter-day Saints have the right to be proud of their Nauvoo Legion, it rendered high and efficient service to them as a community at crucial periods of their history, and really deserved a better fate than befell it—obliteration by unlawful executive action, supplemented by congressional action, questionable in its justice. But subsequent events have proven that the need of a militia body for the special protection of Latter-day Saint communities, either from hostile Indian tribes or threatening, sectarian mobs, no longer existed, and so it was fitting that it should pass away, even if its obsequies were not all that could have been desired.[62]

The next event in Governor Shaffer's administration following this militia incident is what is known as the "Provo Riots." Carrying out the plans formulated at Washington for the suppression of "Mormon influence" in Utah, an additional military encampment was made near Provo, known as Camp Rawlins, named after the late secretary of war in the Grant Cabinet. On the night of the 22nd of September, a party of about forty soldiers between the hours of twelve and two o'clock in the night made a raid upon the city of Provo. Before the riot could be stayed they broke into the residence of city alderman, William Miller, firing several shots into his bed room, smashed in doors and windows and took him prisoner. They broke in the doors and windows and tore down the signs of some of the stores on the principal business street of the town. They surrounded the residence of city councilman A. F. McDonald, who was absent from home, and demolished every outside door and window of the first floor, sacked the house, scattering the furniture and bedding over the yards and sidewalks. Alderman E. F. Sheets house received about the same treatment, and an effort was made to burn the Church house in the central portion of the town. "The raiders," said Mayor A. O. Smoot's telegraphic

61. *See* this Hist., Ch. CV.

62. The History of the Nauvoo Legion is written in detail by Major Richard W. Young, graduate of West Point and some time on the staff of General W. S. Hancock as acting Judge Advocate. His history of the Legion consists of a serial of twelve numbers in *The Contributor*—1888—Vol. IX.

report to the Salt Lake press, "were armed with U. S. needle guns, with bayonets and revolvers, and during their career they captured several citizens, parading them through the streets, some of whom were severely beaten and bayoneted before they could make their escape."[63] The rioters were quelled by the assembling of a number of the citizens and the firing of a few shots, after which the soldiers fled in the direction of camp Rawlins.

There was no justification for this procedure on the part of the rioters except refusal of alderman Miller to rent to the soldiers a hall for the purpose of holding a party; that some of the bishops of Provo had counseled their young men and young women not to associate with the soldiers of the camp; also that councilmen A. F. McDonald had refused to sell them whiskey.[64] The spirit of the affair may be judged by the shouting and declarations made in the progress of the riot, preserved in the depositions of the citizens made at the time before the proper authorities. The rioters swore "they would use up the four 'white houses'—*viz.* McDonald's, Sheets, Mayor Smoots, and Brigham Young's"; that they had come "to run this town"—Provo. "They shouted as they went along the streets 'come out you G—d d—d Mormons and Mountain Meadow Massacre-ers," and further using indecent language and threatening to kill the Mormons and take their women from them.[65] "They said the Mormons had run this Territory long enough, that they (the Mormons) had not got volunteers in the Territory now, but had Uncle Sam's men, who were going to run this town as they G—d d—d pleased. This had been Utah Territory, but now it was Uncle Sam's Territory, and they were going to run it *as they had men to back them.*"[66] There was some shooting in the street by the soldiers, and one of their number by the name of Haws, during the evening, was shot in the shoulder.

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63. Salt Lake *Herald* of Sept. 24th, 1870, also *Mill. Star,* Vol. XXXII, pp. 662-3.

64. Affidavit of Alderman William Miller *Deseret News*—Weekly—of September 28 and Oct. 5th, 1870. All the affidavits covering this event,—sixteen in all—will be found in the same impressions of the *News;* also in *Mill. Star,* Vol. XXXII. Beginning at p. 693 *et seq.*

Prompt action was taken by the military authorities at Camp Rawlins and Camp Douglas and from the headquarters of the Platte in making an investigation of the riots. Major Osborne, in command at Camp Rawlins, promptly expressed regret for the occurrence to Mayor Smoot.[67] In the early morning following the night of the riot one of the perpetrators was in the hands of the City marshal, and several others on the same day were prisoners in the camp, "subject to any demand of the civil authorities." Indeed on the 24th, Major Osborne offered to turn over to the civil authorities all of the prisoners then in custody at the camp, but this offer was declined—for reasons to be stated later—and the party held by the city marshal was turned over to the military authorities for safe keeping.

As soon as the news of the riot was received at Salt Lake City, Gen. R. De Trobriand at once telegraphed it to General Argur, commanding the Department of the Platte, with the memorandum that as Camp Rawlins was not under his (Trobriand's) command he could only forward the dispatch as received. The next evening Gen. Trobriand was ordered from department headquarters to proceed to Provo to conduct an investigation of the disturbance. This order was promptly complied with and on the evening of the 25th of September the General had conferences with both Major Osborne and leading citizens of Provo, and continued for a day or two a concurrent investigation with Mayor Smoot and other civil authorities; and also conducted a court martial inquiry at Camp Rawlins. On the 26th General Trobriand renewed the offer of Major Osborne to turn over the men implicated in the riot to the civil authorities for trial and punishment; but this offer was again declined for the reason that a recent ruling by one of the United States Judges for Utah had withdrawn criminal cases from the jurisdiction of the probate courts; and should the city of Provo or Utah county take charge of the prisoners, they would doubtless be immediately released on a writ of *habeas corpus* by the U. S. district court, so that an attempt to punish the rioters by the

67. Smoot's dispatch to the Salt Lake press, 23d of Sept., *Mill. Star*, Vol. XXXII, p. 663.

civil jurisdiction would be merely a farcical proceeding under the judicial regime then prevailing in Utah.[68]

The Provo incident resulted in a sharp exchange of letters between Governor Shaffer and General R. De Trobriand, commanding at Camp Douglas. After five days had passed from the time of the rioting, Governor Shaffer addressed a letter to General De Trobriand which was published in the *Deseret Evening News,* on the very day that the General returned from his Provo investigations, and which he saw for the first time when it appeared in the aforesaid paper. The Governor announced that so far as he could learn no action had been taken on the part of the military to punish the soldiers, nor any report made public by the officers in command stating all the facts. The Governor had waited these five days in the hope that General De Trobriand would take such action in the premises as would convince the citizens that the soldiery was stationed at Provo "to protect and not destroy." Not hearing from the military authorities on this subject, and "feeling that the outrage was one that should be followed by swift and certain punishment," he now demanded that all the offenders be given up to the civil authorities that he might see that they are properly tried and if convicted punished. The Governor thus insisted because "much feeling exists in this community against the federal officers and

68. Nor is this merely the current prejudiced Mormon view of the matter. General De Trobriand in his correspondence with Governor Shaffer to be referred to in the text, presently, mentions the matter and strongly intimates his belief that the manifest desire of Governor Shaffer to have the rioters turned over to the civil authorities was for no other purpose than that they might be released by *habeas corpus* proceedings—to such a pass had judicial affairs come in Utah. The passage from De Trobriand on the point follows: "Perhaps you would like to know the cause of this persistent refusal of the civil authorities at Provo to take charge of the prisoners. Two reasons were explained to me: the first one that there is no jail in the city; the second that a legal decision of recent date having withdrawn the criminal cases from the jurisdiction of the probate court, the prisoners if taken in custody by the City Marshal, would soon be released on a writ of *habeas corpus*. The insistance of your Excellency to have the prisoners in the hands of the civil authorities at Provo could not be in prevision of such contingency. Oh! certainly not! Now you may see how the matter stands: you ask me solemnly to deliver up the prisoners to the civil authorities. The civil authorities persistently decline to take charge of them. What can we do? Keep them, of course, and for that I have another reason still more conclusive, and that is, that an order to that effect has been received from my Department Commander." (*Deseret News* of Oct. 5th, 1870, p. 408).

soldiers growing out of this transaction, and that feeling is extended to all the federal officers." As governor he was sworn to execute the law, and in pursuance of that duty he would have as high regard "for the property and persons of Mormons as of any other class." The Governor grew eloquent on this point. "In this case the perpetrators of the outrages are men employed by the government and paid for their services to be the guardians of the rights and liberties of those among whom they are stationed, coming here at the expense of the Government to aid and assist the civil authorities in securing to all men their rights, in place of which they have taken it upon themselves to execute all manner of violence and mob law to satisfy their own individual and personal grievances. If the U. S. soldiery cannot fulfill the high object they were sent here for, then far better, for the sake of the credit of the nation and the American armies, *we be let alone to ourselves.*"

In his reply General De Trobriand had the Governor at his mercy: First in that the governor had made public the above named letter before it had reached the hands of the General, which of course would justify the general in replying in a like public manner; second, in that the letter was addressed to the wrong military commander, since Camp Rawlins was not under the jurisdiction of the General commanding at Camp Douglas, all posts in the department of the Platte being independent from each other, their respective commanders communicating directly with department headquarters, hence Major Osborne and not Gen. De Trobriand would have been the proper officer to complain to if any; third, in that the supposed neglect of prompt investigation was on the part of his Excellency instead of the military officers who, as already detailed, had been prompt to take action in the matter, although the governor seemed not to be aware of what had taken place in that kind, and Gen. De Trobriand informed his Excellency that he was under no obligation to keep him informed as to what was occurring in his (Shaffer's) Territory. The General could refuse to deliver up the prisoners to the Governor, because he had received orders from the department headquarters to keep them in military cus-

tody.[69] Answering the Governor's suggestion that if the U. S. soldiery could not fulfill the high object for which they were sent to Provo and to Utah—"to protect and not destroy"—"then better, far better, for the sake of the credit of the nation and the American armies, we be let alone to ourselves"—to this, and his answer presents the whole situation in Utah at that time, the General said:

"If it was not too much of curiosity, I would like to know if the real object of those who caused the 'U. S. soldiery,' as you say, to be sent at Provo, was not somewhat different from the high object so eloquently set forth by your Excellency. But as any question on this subject would remain unanswered, I will only refer to your last words, (that) *'we be let alone to ourselves.'* By all means, Sir, if you wish it. You know by this time that we of the army are not of a meddling temper, we are no politicians; we don't belong to any ring; we have no interest in any clique, and we don't share in your spoils. Our personal ambition is generally limited to the honest and patriotic performance of our duties for our own satisfaction and the best interests of the government. Wherever we are ordered to go, we go, but we have no voice in the matter, and if we are sent to Provo or any where else, it is not, as you are aware, on our application, but by the influential request of somebody else, generally in compliance with the demand of the Governor.

"*To be let alone!* Why, Sir, the military itself, does not wish any better, if our soldiers were let alone instead of being poisoned physically with bad whiskey and morally with bad influences, there would be no troubles with them.

"That you be let alone to yourselves?—*'you,'* meaning of course, the people of this Territory, including its Governor, its churches, its militia, its legislature, its judiciary, its municipality, etc., etc.—would certainly be a great blessing to all, and I am happy to agree with you on that point. Then why not try it? and if the presence of the 'U. S. soldiery' interferes in any way with the harmonious workings of your 'happy family,' a single order from Washington may settle the question. Rest assured, Sir, that in such a case we will all obey without hesi-

69. Subsequently an investigation was made of this outrage at the headquarters of the department of the Platte; the responsibility for it was fixed upon the officers and soldiers of those companies present for duty at that date; and the amount of damages fixed upon by the Mayor of Provo to the injured parties was ordered to be paid, the order to take effect immediately. Condensed from the Omaha *Herald*, quoted in *Mill. Stat*, Vol. XXXII, p. 816.

tation or murmur, letting you alone to the full enjoyment of that popularity which so justly distinguishes your administration and surrounds your person in this Territory of Utah.'"[70]

The General was severely criticised in some quarters for his letter to Governor Shaffer; but the blunders and injustice and hypocrisy of the Governor's letter in which he sought to make it appear that he was the active man in guarding the rights of the people and the peace of Utah, and the General the inert one, readily suggest the circumstances that justified General De Trobriand's form of resentment of the injustice done to him by the Governor's course. From the first the General had refused to be drawn into the political schemes and plots of the Utah anti-Mormon "Ring," greatly to their annoyance, and they were bent upon doing all in their power to discredit him with the administration, and Governor Shaffer's published letter was doubtless a direct effort for the achievement of that end.[71]

In the midst of these stirring events General Sherman and Schofield, and some members of their respective staffs arrived in Salt Lake City, from California and remained for several days. The party called upon President Young and several other Church leaders at President Young's office. "Both parties," says Wilford Woodruff, who was present and journalized the visit, "were quite sociable."[72] One evening during General Sherman's visit the band from Camp Douglass serenaded

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70. See *Deseret News*—Weekly—of Oct. 5th, 1870, where both letters will be found *in extenso*.

71. The Omaha *Herald* thus commented upon the circumstance: "The recent outrages of the U. S. soldiery upon the unoffending people of Provo, Utah, were the result of a drunken mob for which no respectable officer is in any degree responsible. Governor Shaffer seizes upon the opportunity to fix responsibility for it upon General De Trobriand for the double object of showing a regard for decency and to injure that excellent gentleman and soldier in public estimation. In the opinion of the Colfax missionaries the General is too much disposed to look with favor upon the merits of the Mormon people, and with contempt upon the latest raid upon their peace. This is the sweet milk in the cocoanut." (Omaha *Herald* of Oct. 1st, 1870). The Salt Lake *Herald* commenting on the correspondence said: "We have no need to defend General De Trobriand, who was the special object of the last attack by his Excellency, Governor Shaffer. He is amply able to defend himself, but we arraign Governor Shaffer at the bar of the nation for flagrant abuse of his official position; and ask the President of the United States to remove from office a man who seeks persistently to drive a peaceable people into rebellion, and then to cover over his own acts endeavors to cast blame on an officer whose name is a synonym for bravery, efficiency, and gentlemanly bearing." (Salt Lake *Herald* of October 1st, 1870).

72. Woodruff's Journal, entry for Oct. 3rd, 1870.

him and the crowd which gathered in front of the Townsend House clamored loudly for a speech; but neither the calls from the crowd nor the pleadings in a private interview could move the General to consent to make a speech, and most of the crowd dispersed. About an hour afterwards—ten p. m.—the Parowan choir, then in attendance upon the semi-annual conference at Salt Lake City, went to the hotel and before its main entrance sang several pieces. Then the cry was again raised for a speech "No, no," the general called from the veranda, "I would rather hear the girls sing." The choir then rendered very effectively "Hard Times Come Again No More." General Sherman could not resist the appeal in this heart-song of a people who had made it theirs by the "hard times" through which they had passed, and he came forward upon the veranda of the hotel "and in a few well chosen words acknowledged the compliment paid to him by the singers;" but he disclaimed all intention of making a speech. "He had heard that the singers were from Parowan; he did not know Parowan, only by having seen it on a map. He was gratified to behold the beautiful homes which the people, while facing difficulties and trials of the severest kind, had built up in the desert, and his sincere wish was that they might live to enjoy them, and that to them 'Hard times would indeed come again no more.' "[73]

But little else of importance happened during the administration of Governor Shaffer. The disease of which he was really dying when he received the appointment which sent him to Utah—consumption—demanded its toll of death as the autumn leaves fell, and on the last day of October the Governor died.[74]

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73. *Deseret News*—Weekly—of Oct. 12, 1870.

74. The body of the Governor was sent to Illinois for interment. He was given processional honors in conveying the body to the railroad depot for transit, under the auspices of the Masonic fraternity. Although the people of Utah were much offended at the course pursued by Governor Shaffer and had no reason to regard him as their friend, still flags were placed at half mast from the general co-operative store, from the *Deseret News*, and other buildings, and the principle stores and places of business were closed during the ceremonies (*Deseret News*—Weekly—of Nov. 9th, 1870).

SEPTEMBER, 1914

AMERICANA

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GENERAL HUGH MERCER

AMERICANA

September, 1914

Hugh Mercer

GENERAL HUGH MERCER, a distinguished officer in the Revolution, was a member of a distinguished Scottish family which had furnished, particularly to the kirk, men famous in public life. His great-grandfather, John Mercer, was a minister of the church in Kinnellan, Aberdeenshire, from 1650 to 1676, from which pastorate he resigned a year before his death.

The grandfather of Hugh Mercer was Thomas Mercer, whose son William was educated for the ministry, and was in charge of the Manse at Pittsligo, Aberdeenshire, from 1720 to 1748; he married Anne, daughter of Sir Robert Munro, of Foulis, who was killed while commanding the British troops at Falkirk in 1746. Hugh Mercer, son of Rev. William Mercer, was born probably in 1725, as he was baptized in January, 1726. Of his boyhood life little is known. As was the case with many Scottish lads, he entered college when about fifteen years of age, matriculating in the School of Medicine, Marshall College, in 1740, graduating in 1744. Moved by the loyal spirit of his ancestors, he joined the army of Prince Charlie, the "Young Pretender," and appears as assistant surgeon upon the ill-starred field of Culloden. In the autumn of 1746 he set sail from Leith, remained a short time in Philadelphia, and settled at Greencastle, Pennsylvania, Mercersburg, then upon the frontier of new world of civilization. Practicing his profession in the wilds of the "Indian country," Hugh Mercer does not appear prominently until the year 1755, when in the Braddock Expedition he appears as a captain of militia. Following Braddock's humiliating defeat, Hugh Mercer although wounded, walked many

miles through the wilderness to his home. Early in the spring of 1756 he was selected as captain of the local militia, having supervision over a wide district, with McDowell's Ferry (Bridgeport) as headquarters, and acting as physician and surgeon to the garrison. For these and other patriotic services the corporation of Philadelphia presented him a vote of thanks and a medal.

In 1757, Mercer was in command of the militia stationed at Shippensburg, Pennsylvania, being appointed major in December, 1757, with command of all Provincial forces stationed west of the Susquehanna. In 1758 Major Mercer was in command of a portion of the Forbes expedition against Fort DuQuesne. It was during this period that he met Colonel Washington, whose military fame had spread beyond the confines of the Great Northern Neck of Virginia. Between the two men a friendship was established that led Mercer to remove from Pennsylvania to Virginia, taking up his residence in Fredericksburg, famed as the home of Washington's mother. There General Mercer attended meetings of Lodge No. 4, Free and Accepted Masons, of which George Washington was a member.

Throughout the period of constitutional agitation preceding the Revolution, Dr. Mercer devoted himself to his practice and to the delights of those social relationships for which Fredericksburg was and is noted. In 1775, the Royal Governor, Dunmore, at Williamsburg, transferred a portion of the colonial store of powder from the magazine to the ship "Magdalen." It was this crowning act of executive incompetency to deal with local phases of the general revolutionary problem that led to the organization of the Whig regiments. September 12, 1775, Mercer was appointed colonel of minute-men for the counties of Caroline, Stafford, King George and Spottsylvania. Stimulating the spirit of the Committees of Safety, and sustaining the enthusiastic but untrained provincials, Mercer wrote to the Virginia Convention: "Hugh Mercer will serve his adopted country in the cause of liberty in any rank or station to which he may be assigned." At this critical juncture three regiments of Virginia provincials were organized, and for the command of the first of these Hugh Mercer was defeated by Patrick Henry

by one vote. Subsequently, Mercer was elected colonel of the third, and at Williamsburg drilled the volunteers and levies.

A wider field of duty demanded Mercer's services. In recognition of his popularity and military skill, on June 5, 1776, the rank of brigadier-general in the Continental army was conferred upon the gallant Virginian. Within a few weeks General Washington, returning from Massachusetts to New York, selected General Mercer to take command of the troops engaged in the fortification of Paulus Hook, now known as the old downtown residence section of Jersey City. Besides discharging his duties there, he was placed in command of the "Flying Camp" of ten thousand men stationed at and near Perth Amboy. Events between the rout of the patriotic army at Brooklyn and the retreat through the Jerseys moved rapidly, nor can the military details of the crossing of the Delaware and the attack upon Trenton be repeated here. Historians have credited General Mercer with suggesting the change of Washington's Fabian policy, and of his working out the details of the movement that altered the fate of an empire. This much is sure, that upon the Christmas night of 1776 no one of Washington's galaxy of leaders was more trusted than was Mercer, and no one shared greater fruits of victory. Upon the recrossing of the Delaware, it was at General Mercer's headquarters on the night of January 2, 1777, that the plan to break camp and leave the camp fires burning upon the south bank of the Assunpink creek was formulated. Thence it was that General Mercer went to his doom. The story of the surprise at Princeton on the morning of 3rd, of the clash upon the frost covered ground between Mercer's men and the British regiments; of the fight about the Clark house; of the peril of Washington; and of Mercer's leaping from his horse and rallying his men—have often been told. Infuriated by the turn of the fortunes of war, General Mercer, while in the very act of leading his men to victory, was attacked by several British soldiers. Repeatedly stabbed, he was beaten upon the head with the butt ends of muskets, and, refusing to surrender, was left for dead. The retreating British soon gave place to the Continental soldiers, who tenderly carried their general into the Clark house, where he was nursed by the de-

voted Quaker women of that family. By his side, in attendance, were Dr. Benjamin Rush, of Philadelphia; Dr. Archibald Alexander, of Virginia, and Major George Lewis, nephew of General Washington. Lingering in agony for nine days, General Hugh Mercer died in the arms of Major Lewis.

The death of Mercer created a profound impression throughout the nation. His body was removed to Philadelphia under military escort, was exposed in state, and it is said thirty thousand people attended the funeral. It was upon the south side of Christ Church, Philadelphia, that his body, interred with military and civic honors, was placed beneath a slab upon which was cut: "In memory of Gen'l Hugh Mercer, who fell at Princeton, January 3rd, 1777." Moved by a sense of patriotic duty, Congress, upon April 9, 1777, directed that monuments be erected to the honor of General Mercer at Fredericksburg, and of General Warren at Boston. Upon the 28th of June, 1902, one hundred and twenty-five years thereafter, the Fredericksburg monument was erected, bearing upon its face the inscription ordered to be placed by the resolution of 1777. With that singular perversity that seems to afflict mankind, a succeeding generation refused to permit General Mercer's bones to remain undisturbed. The St. Andrew's Society removed his body to Laurel Hill Cemetery, then upon the edge of the city of Philadelphia, and November 26, 1840, dedicated a monument to his memory. Of this society General Mercer was a member, and the monument was properly inscribed.

Besides the name of one of New Jersey's twenty-one counties, there are in the State of New Jersey two memorials to Mercer. One is the old fort at Red Bank, Gloucester county, where at Fort Mercer, in 1778, a gallant defense of Philadelphia was made by General Greene and the navy upon the Delaware. The other memorial is in Princeton and consists of a bronze tablet unveiled October 1, 1897, the gift of Mercer Engine Company, No. 3.

THE GIRL PIONEER SALUTE



A brave heart



An honest mind



A resourceful hand

Girl Pioneers of America

NATIONAL ORGANIZATION

INCORPORATED

By Adelia Belle Beard

IT is most appropriate that the Americana should publish an account of this movement which derives its inspiration and its name from the early Americans, for the movement is truly American in its aim, its ideals and in the practical application of the early pioneer qualities and virtues. As has been justly said, while historical societies, the Daughters of the Revolution, Colonial Dames and like organizations seek to preserve the historical records and objects connected with the early life of our country, the Girl Pioneers, working in harmony with them, revive and perpetuate the *spirit* that dominated the invincible men and women who made our great nation possible.

The pioneer sturdy independence, staunch uprightness and indomitable courage are invaluable in character building, and to build up character and develop the good to be found in all girls is the purpose of the movement. The highest principles are embodied in the Girl Pioneer pledge and law, and to implanting and cultivating these the whole power of the organization, with its many branches of activities, is directed.

The watch word of the Girl Pioneer is *I Can,* her pledge:

"I will speak the truth at all times,
I will be honest in all things,
I will obey the Pioneer law."

And the law gives her code of honor in these words:

"1. A Girl Pioneer is trustworthy.
2. A Girl Pioneer is helpful and kind.
3. A Girl Pioneer is reverent.

4. A Girl Pioneer chooses happy, cheerful, wholesome topics for conversation.

5. A Girl Pioneer keeps herself physically well and strong.

6. A Girl Pioneer is self-respecting and keeps her thoughts clean.

7. A Girl Pioneer is brave.

8. A Girl Pioneer is loyal.

9. A Girl Pioneer does not speak ill of anyone.

10. A Girl Pioneer is cheerful.

11. A Girl Pioneer is industrious and thrifty.

12. A Girl Pioneer always remembers that people are worth more than money or things, and the Girl Pioneer values another for what that other really is, not for what she has."

The pledge goes straight to the root of right living without equivocation, and stands unflinchingly for the necessity of a sound foundation on which to build. The Girl Pioneer does not say I wish to speak the truth, or I will try to be honest, she says plainly *I will* and each repetition of these two words helps to make the will stronger and keeping the pledge easier. Its straight forward simplicity makes it applicable to practical, every-day life, and that it is applied with success incidents related by Directors of Bands, and experiences told by the girls themselves, go to prove.

The principles upon which the Girl Pioneer organization is founded are taught not simply as precepts, they are found and practiced in all the delightful activities of the movement. Out door life with its limitless avenues of interest—camping, trailing, woodcraft, learning to know the wild life of the open, its plants, its flowers, birds, common wild animals and insects; the stars and the meaning of the shadows, the use of nature's material in handicraft—all these and many more are opened to the Girl Pioneer, and in searching firsthand and by actual contact into the life of these things of nature, she is finding the beauty of truth and the wonder of reality. By her membership in this large organization she is learning to be less self centered, learning to work with others and for others, and to share her enjoyments with others. By the joyous participation in field sports and such recreation as rowing, swimming, fishing, riding, kite

flying, stilt walking and the more conventional games of basket ball, service ball, tennis, archery, etc., she is learning to play honestly and fairly, and is building up bodily health and strength to keep pace with the mental and moral health that is being developed within her.

By her indoor life, lived as truly in the pioneer spirit as her life in the open, she is bringing into play the faculties of resourcefulness, of adaptability, of thoroughness and the virtue of helpful kindness. She learns to do all household tasks, to do them well and to be interested in them. She is taught in charming ways the use of her five senses and is delighted to find that she can develop them and consciously enjoy them. She learns how to care for the sick and for young children; she is proud of being able to render first aid according to the latest and best methods; she learns how to avoid accidents as well as what to do in case of accidents. She has a system of signs for blazing the trail which belong solely to the Girl Pioneer and she learns what to do in case she is lost when camping or trailing.

The mind and imagination of the Girl Pioneer are stimulated by true stories of heroism and adventures of the early pioneers. Her merit badges are given the names of women pioneers including, besides the early settlers, pioneers in the arts and sciences, in invention and helpful work for humanity. Her honors are shown by stars worn on the sleeve which indicate the tests successfully passed and lead up to the final merit badge.

The Girl Pioneer colors, chosen by the Pioneers themselves, are red, white and blue. They not only signfy that the organization is national in extent, but hold a still further meaning for the Girl Pioneers, *red* standing for courage, *white* for purity and *blue* for truth. The graceful salute symbolizes a brave heart, an honest mind, a resourceful hand, for the motto of the Girl Pioneer is: "*Brave, honest, resourceful.*"

In keeping with the spirit of the organization the Girl Pioneer khaki uniform, with its red neck scarf and red hatband, is practical, adaptable and pleasing. The red neck scarf and hatband not only add a bright and becoming touch of color to the uniform, but serve to make it easily distinguished and visable at a long distance. This is a great help to the Director, who

must keep her girls in sight. The skirt is designed to be converted at need into a most comfortable stretcher; it can be combined with others and used as an impromptu shelter, it can also be turned into a duffel bag. Without the skirt there is a complete and modest costume of bloomers and belted blouse. The neck scarf can be used for many purposes and the great adaptability of the uniform is demonstrated in the uniform drill.

The Girl Pioneers have their banners, their Pioneer sign, their initiation with its ceremony and membership certificate; their rallies, field days and other general meetings indoor and out. They have their general Pioneer cheer and each Band and each group has a cheer of its own. There is the official song which all the Pioneers sing and the Bands compose songs for themselves.

The Girl Pioneer organization is governed by an Executive Board of which the Chief Pioneer, Lina Beard, is the head. There is a National Council, composed of prominent and influential men and women, living in various places in the United States, to be called upon when council is needed. Among its members are such men as Joseph Swain, President of Swarthmore College; Dr. Earl Barns, School of Psychology and Pedegogy; Bishop David H. Greer of the Episcopal Diocese of New York; Daniel Carter Beard, Chief National Scout Commissioner and one of the founders of the Boy Scouts of America; John Burroughs, the well-known naturalist and bird lover; Hon. Gifford Pinchot, President of the National Forestry Association, and Luther Burbank, the wizard of the plant world. On its list of women members are the well-known names of Jeannette Gilder, Helen Varick Boswell, Eizabeth Jordan, Mrs. F. J. Shuler and Mrs. Kate Waller Barrett. There is also a membership of those who see the good in the organization, believe in it and aid by the payment of yearly dues, or one contribution constituting life membership. The parents and friends of the girls can help effectively, as Associate, Contributing, Sustaining members, Patrons or Life members.

Each Band of Girl Pioneers is under the leadership of a volunteer Director, who is at least twenty-one years of age, and furnishes acceptable credentials. The Band is composed of one or several groups of from six to ten girls each. The name of an

American wild bird is chosen for the name of each group and the Band is known by its number. Having the girls call themselves by the names of American wild birds stimulates an interest in the birds and calls out love and protection for them. The bird cheers of the groups are very breezy and inspiring.

In order to become a full pledged Pioneer a girl must be twelve years of age or over. There is no limit after the twelfth year, and provision is made for younger girls between the ages of eight and twelve by admitting them as Juniors. They are formed into Bands and are also taken in with the older girls, but in either case they must wait until they are twelve years old before they may be initiated, receive their certificate of membership, and wear the badge. In all other respects they enjoy the same privileges as older girls. The Executive Board heartily advocates the forming of Junior Bands. Between the ages of eight and twelve a child is easily trained and is very ambitious. By the time she has reached the necessary age for complete membership, her steps are turned in the right direction and, her heart is filled with loyalty to the Girl Pioneers. It is *her* organization, she is growing up as a Girl Pioneer and she accepts without question the moral training that is so much a part of the good times her membership gives her.

The Girl Pioneers of America is, indeed, the true sister organization of the Boy Scouts of America. It is built along similar lines and makes principle its foundation while using the outdoor life both as an inducement and as the means of development. Its work is as practical as the Boy Scouts and runs parallel with it, but it borrows neither the Boy Scout name, its terms, its sign or its badges.

The Girl Pioneer ranks are open to all girls and the work is very helpful in Sunday Schools, public schools, private schools, camps and all large societies for girls such as Young Woman's Christian Association, Young Woman's Christian Temperance Union, play grounds, etc.

The Girl Pioneer folder will be sent upon application and the Manual will be sent upon receipt of price, thirty-five cents, and seven cents postage. For further information and for literature address Secretary of Girl Pioneers of America, 63 Jamaica Avenue, Flushing, N. Y.

History of the Mormon Church

By Brigham H. Roberts, Assistant Historian of the Church

CHAPTER CX

Would-be-Governors of Utah—Brief Term of Governor Vaughan—"Wooden-gun Rebellion"—Rival Celebrations of the Fourth of July—Contested Delegate Election—The G. L. U.'s

IT had been known for some time that Governor Shaffer could not last many months, and meantime, a number of aspirants in Utah were waiting for his place. Quite a number of Utah "Ring" were willing to be considered as more than "receptive candidates;" and all were greatly annoyed by the sudden telegraphic appointment, on the very day of the Shaffer obsequies, of Vernon H. Vaughan to be governor of Utah. This created a vacancy in the secretaryship of the Territory, and George S. Black, who had come to Utah in the capacity of private secretary to Governor Shaffer, was appointed to fill the vacancy at the same time that Vaughan was appointed to be Governor.[1] The

1. See dispatch in *Deseret News*—Weekly—of Nov. 9th, 1870. On the evening of his appointment a band and a few friends called upon the newly appointed Governor and serenaded him; and to the company Governor Vaughan made a brief speech in which he eulogized his predecessor and pledged himself to deal justly in the office to which he had been so suddenly appointed. As this took place on the evening of the day that processional honors had been paid to the late Governor, in placing his body on the train for transit to Illinois, anti-Mormon malice reported, and it was published in the Omaha *Republican*, that—"On the evening of the funeral ceremonies of the late Governor, J. W. Shaffer, of Utah, and while his remains lay in his dwelling, surrounded by his family and mourning friends, (his house being the next house to the residence of the new Governor, Vaughan, and both enclosed in the same yard) a large crowd of Mormons, headed by the Mormon brass band, marched up the street and filed into the yard, and with cheers and exultations serenaded the New Governor, who came out and delivered to them a harangue, in which he promised to be their friend, and to see that they had all their rights and privileges." (See *Deseret News*—Weekly—of 16th of Nov., p. 478, which copies the Republican Article). Each one of these statements is specifically denied by the *News* Editorial, except the fact that a band that evening serenaded the Governor, but it was after the departure of Shaffer's remains.

Omaha *Herald* suggested that the appointment of these two young men was merely temporary and made under the felt necessity of having executive officers to act immediately. And this was the view taken of the appointments throughout the country,[2] and especially by the "Ring" in Utah, and for a time there was quite a general speculation as to the next executive for Utah. Mr. Shelley M. Cullom, member of Congress, he of the anti-Mormon Cullom Bill fame, had been recently defeated for re-election from the eighth district of Illinois, and for a time his name was connected with the appointment to the Utah governorship.[3] General Silas A. Strickland of Nebraska was also for a time, prominently named for the place, but Senator Thayer, his principal supporter, failing of re-election, Strickland's name was withdrawn though supported by the Omaha *Herald* as well as by Senator Thayer.[4]

Among the Utah "ringites" who hoped for the appointment

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2. The Chicago *Post* was particularly severe upon the appointment of Vaughan and gave the following description of him: "Vincent (Vernon H.) Vaughan is the new Governor of Utah. His qualifications are as follows. He was a rebel throughout the war; engaged in a couple of duels after the war; his name is euphonious enough for a ten cent novel; his record is sufficiently like Brigham Young's to render him an easy prey to the latter; he is young himself, and the United States Government in Utah is in a fizzled condition. Perhaps it would have been as well not to appoint Vincent Vaughan, Esquire." (Quoted in *Mill. Star* Vol. XXXII, p. 760). The New York *World* had the following passage on the Utah Governorship: "The Hon. John Covode passed through Chicago on Friday (Nov. 11), returning from California and Salt Lake. He says that the recent appointment of Vaughan as Governor of Utah won't answer, because the position requires a man who is firm, sober, and dignified, and who will properly support the government and the judiciary, so ably represented there by Judge McKean. He thinks the appointment of John Covode would be the best appointment that could be made." (*Ibid.*)

3. "There are several interested individuals who hope the appointment of Governor Vaughan is only a temporary one. We understand Mr. Cullom . . . hopes the appointment is only temporary. . . He would like, we are told, to be Governor of Utah." (*Deseret News*—Weekly—of Nov. 16, 1870). A Washington dispatch to the Salt Lake *Herald* dated December 3rd, said: "There is a strong feeling here against the confirmation of Vaughan as Governor of Utah Territory, and an effort will be made to induce the President to withdraw his name. The President is urged to adopt a firm policy towards the Mormons, and to force them into obedience to the United States laws. He is advised to appoint a man who will govern Utah with a stern hand, and in this connection certain prominent Pennsylvania politicians are endeavoring to secure the appointment of Shelly M. Cullom, at present Chairman of the House Committee on Territories, and author of a very stringent Mormon bill, introduced in the House last session. Appearances indicate that the President intends to yield to these suggestions, and withdraw Vaughan's name; and adopt a more stringent policy towards the Mormons." (Salt Lake *Herald*, Vol. I, No. 159, Dec. 4, 1870).

4. Springfield *Republican* of Jan. 27th, 1871, copied into the *Mill. Star*, Vol. XXXIII p. 121, also *Deseret News* of Nov. 16, 1870, p. 484.

was O. J. Holister, collector of Internal Revenue for Utah, and brother-in-law of Vice-President Colfax; also General P. E. Connor, who based his hopes upon President Grant's regard for military men.[5] Finally, however, George L. Woods, an active Oregon politician, whose four year term as Governor of Oregon had recently ended, was appointed to fill the position.[6] His appointment was made in January, but he did not take the oath of office until March 10th, and about six weeks later arrived in Salt Lake City. He continued in office about four years, until December 28th, 1874.[7]

It was during Governor Vaughan's brief administration that what is derisively called in our annals the "Wooden-gun Rebellion," occurred. The circumstances are these: The third regiment band of the Utah militia—Nauvoo Legion,—in anticipation of the fall musters had sent east for new instruments, and on their arrival, notwithstanding the interdiction of the late Governor Shaffer (if it was thought of at all) against all "musters, drills, or gatherings of the militia of the Territory of Utah, and all gatherings of any nature, kind, or description of armed persons within the Territory of Utah," except by his orders, invited the members of the regiment to assemble at the Twentieth Ward School House to hear the band and accompany it by a drill. The regiment responded to this invitation of their band; they did not assemble by order of their Colonel or other officers; but when assembled some of the latter took command and directed the movements of the several companies of the regiment in the drill. This on the 21st of November, 1870. Hostile and ultra anti-Mormon U. S. officials heard of this "drill in defiance of the late Governor's prohibitions," and hastened to the scene,

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5. See *Deseret News*—Weekly—of Nov. 16, 1870.

6. Woods who was an active Republican in Oregon was chosen a Lincoln Presidential Elector from that state in 1864. In 1866 he was elected Governor of Oregon, the term running four years, (See Bancroft's Hist. of Oregon, Vol. II, pp. 666-8). "Utah has never had a governor from whom we could reasonably hope so much as from Governor Woods," said the Springfield (Mass.) *Republican* impression of Jan. 27, 1871. He was "a Missourian by birth" says Bancroft "a pronounced Anti-Mormon; . . . had accumulated and lost a considerable fortune. He was a man who, though by no means of the highest, purest morality himself, was it seems, exceedingly jealous for the morality of the nation." Hist. of Utah, pp. 661-2).

7. Utah *Gazetteer* for 1884, where a table of dates of the appointment of Utah officials up to that year will be found, pp. 254-7.

with the result that warrants were issued for the arrest of eight of the principal officers[8] at the drill, on the charge of "treason and rebellion." At the preliminary hearing before associate justice C. M. Hawley, the two witnesses examined varied in their estimate of the number present. "One hundred" said the first witness, Mr. R. Keys; "three hundred," said Mr. Black, secretary of the Territory.

It appears from the evidence that the men and officers were in uniform; that they carried arms; that they were drilling; that the drill was accompanied with martial music; that they carried an American flag; that from one to two hundred spectators were present, chiefly women and children; that the drill occurred between the hours of ten and twelve noon; that there was no drinking, nor rowdyism, nor profanity; at the end of the drill the companies marched off in different directions.

The statue invoked for the arrest of these men was section two of an act passed by Congress, "to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels" and for other purposes, approved July 17th, 1862, and which reads as follows:

"Sec. 2. And be it further enacted, That if any person shall hereafter incite, set on foot, assist, or engage in any rebellion or insurrection against the authority of the United States, or the laws thereof, or shall give aid or comfort thereto, or shall engage in, or give aid and comfort to any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years; or by a fine not exceeding ten thousand dollars, *and by the liberation of all his slaves, if any he have;* or by both of said punishments, at the discretion of the Court."

The prosecuting officer when reading this section of the statue and coming to the penalties prescribed halted at the word "dollars." To go on with the rest of the penalty, "*and by the liber-*

8. Their names were Geo. M. Ottinger (for a long time chief of the fire department of Salt Lake City), Andrew Burt (for sometime chief of police of Salt Lake City, and an efficient officer). Charles R. Savage (one of the most genial and inoffensive men that ever lived in the west, and for many years a member of the "Old Folks Committee," an organization which provides a free annual excursion and entertainment for the old folks of the community); James Fennemore, Archibald Livingston, Charles Livingston, W. G. Philips and John C. Graham.

ation of his slaves, if any he have," revealed only too clearly the absurdity of seeking to apply this statute to the above case; but the prosecutor concluded his argument, the court took the case under advisement and later gave an extended and "learned" opinion upon the case, and finally bound the militia officers over to await the action of the grand jury, fixing the bond in the case of higher grade officers at $5,000, and to the lesser grade at $2,000.

The "rebels" and "treasoners" during their preliminary hearings, and until admitted to bail were consigned by the U. S. Marshal to the military authorities at Camp Douglas, where Gen. Morrow, in the temporary absence of Gen. R. De Trobriand, was in command. The general merely required that the "rebels" give their word of honor not to leave the precincts of the camp in a clandestine manner, whereupon the full liberty of the camp was accorded them, with the privilege of an occasional visit to the city if they desired it. The house of one of the officers was assigned them, as their "prison," and here they lived in contentment, their friends calling upon them at will. Many merchants "on main street," both Mormon and non-Mormon, sent them all sorts of delicacies for their table, while the camp library to which they were given free access afforded them the pleasant enjoyment of reading. Finally they were admitted to bail to appear before the grand jury, but it can be readily understood that no grand jury would seriously consider such a case and the rebels were never indicted.

During the preliminary examination Mr. Keys, one of the witnesses for the prosecution—of course no others were examined—stated that in conversation with Mr. Savage—one of the "rebel officers"—he had remarked upon the youthfulness of the "boys" composing the band. "Yes," answered Mr. Savage, "that band a year ago could not play a note." "*There were a lot of boys with wooden guns present,* and Mr. Savage said they were going to have a drill," said Mr. Keys. That fixed the title of this whole affair, it was henceforth episodical *opera bouffe,* and no incident of the serious historical drama being worked out in Utah.

Grave historians have tried to read into the absurd lines of it

constitutional questions, and to have it regarded as a serious effort on the part of Utah military authorities to test the valadity of a dead Governor's (Shaffer's) decree as against the Territorial militia law, and the constitutional right of the people to bear arms, and have "a well regulated militia for their protection." But no one knowing the Lieutenant-General of the Legion and the personnel of his staff, can think that they would undertake a test of these questions in a manner so absurd. It was an informal gathering of militiamen in uniform and with guns, it is true, but all living in one ward,—neighbors,—and met for a few hours amusement with a juvenile band, and with some boys present with wooden guns, doubtless to mimic the drill of the older men and to give a name to the episode—"Wooden Gun Rebellion;" and such it was, truly, in the sense of being harmless, and without design of rebellion, but made comical by the arrest of those peaceful men—the officers of the regiment. The desperate earnestness of the prosecuting attorney, General Maxwell,[9] appointed for the occasion, in the temporary absence of the U. S. attorney; the long and learned opinion of the court, Judge Hawley, which was published in all its solemn length, and, literally, the yards of angry editorial written at the time, only add piquancy to the extravaganza.[10]

In July following there occurred still another military episode which holds in crystallized form the petty tyranny of the times, and the injustice and annoyance forced upon the Latter-day Saints of Utah. As noted in these pages, from time to time, the Latter-day Saints, almost from the first year of their advent into the Salt Lake Valley, not only in Salt Lake City but

9. General Geo. R. Maxwell was Register of the land office. He was a civil-war veteran, from Michigan, many times wounded while in the service, therefore respected, despite his half-insane hatred of Mormons and all things Mormon. A correspondent of the Cincinnati *Commercial* described him a little later as a man "with a strong, dissipated face, * * * * looking as if he had overslept for a week and got up mad"—this, it is not unfair to say, was his habitual appearance. Maxwell entered the Union army when seventeen years of age, and at twenty-one was a brigadier-general. During the war he had both legs broken, his right arm fractured, lost three fingers of his left hand by a sabre-cut, and had his collar bone broken by grape shot, besides several flesh wounds. Wood's Recollection, Ms., pp. 39-40, quoted by Brancroft, Hist. of Utah, p. 665, *note*.

10. The preliminary examination, the learned opinion of the court, the reception and treatment of the "Rebel" officer at camp Douglas and several editorials on this subject will be found in the *Deseret News*—Weekly—of Nov. 30th and Dec. 7th, 1870, also in the Salt Lake *Herald* of the same period.

throughout their settlements, had celebrated the anniversary of American Independence. It was their intention to do so in Salt Lake City as elsewhere throughout the Territory in this year of 1871, notwithstanding the many irritations to which they had been of late subjected by the newly arrived U. S. officials. Accordingly early in June the city council appointed the usual committee to make the arrangements for the celebration of the approaching anniversary. The committees of arrangements usually appointed by the city council had never made these celebrations exclusively "Mormon affairs," but had recognized the propriety of giving a chance to the citizens of the municipality, irrespective of church affiliation, an opportunity to participate in the celebration of the anniversary of this all-American's day —the American patriot's day of days. And so in this year of 1871 there was no likelihood that they would depart from this custom. But early in June the non-Mormon residents of Salt Lake City took the matter in hand to formulate a celebration on their own account. Before much progress had been made on either side, however, it was proposed that a united celebration be held that would be more worthy the occasion than a divided effort could possibly be. Accordingly a committee from the non-Mormon citizens met with part of the committee appointed by the city council to consider the feasibility of a United celebration. There was a free exchange of views, but the members from the city council's committee, not feeling authorized to enter into arrangements of a final nature, resolutions were drawn up, and signed by Geo. L. Woods, Governor of the Territory, and Geo. R. Maxwell, chairman and secretary respectively of the non-Mormon citizens committee, asking the city council to authorize their present committee, or to appoint a new one, to make final arrangement for "a single, harmonious celebration of the coming Fourth of July, irrespective of any and all action heretofore taken by either of the aforesaid committees." To this the city council made reply saying that according to custom the city council had appointed a committee of arrangements, "who were deemed by them ample in number and fully competent in ability for the occasion;" that considerable progress had been made in providing for the event "without any appar-

ent want of wisdom or energy to provide for the entire community in its most liberal demands and in which all are invited to participate." It was therefore *resolved* that it was unnecessary to set aside present arrangements.

The non-Mormons were indignant, and so preparations were set on foot for a rival celebration. All the miners from outlying camps were invited to come to the "Gentile Celebration" of the Fourth of July in Salt Lake City. A like invitation was sent to the non-Mormons of Corinne, Ogden, and other places. Through the columns of the Salt Lake *Tribune,* which by now had come into existence, the non-Mormons announced their determination "to maintain their independence of priestly dictation" as well as to celebrate the Fourth of July.

On the 22nd of June Daniel H. Wells, in his capacity of Lieutenant General of the Utah militia, ordered out the martial brass bands under their respective leaders; one company of artillery with ordnance to fire salutes; one company of cavalry; three companies of infantry. "The detail will perform such service during the day as may be assigned to it by the committee of arrangements. Good order is strictly enjoined. No fast riding is allowed within the limits of the city. By order,"[11] etc. Eight days later Territorial secretary, Geo. A. Black, and during the temporary absence of Governor Geo. L. Woods acting-Governor of the Territory, forbade the carrying out of the order of General Wells as violating the proclamation of the late Governor, J. W. Shaffer; and further, he Geo. A. Black, "ordered and commanded" that "all persons except U. S. troops desist from participating in any military drill, muster, or parade of any kind, from and after this date, or until it shall be otherwise ordered or commanded by the governor,"[12] etc. In anticipation of resistance to his orders, the acting-Governor called upon General De Trobriand to be present in Salt Lake City with U. S. troops and to fire upon the companies of militia if they attempted to participate in the parade as directed to do by General Wells.[13]

11. The Order—Special, No. 1—will be found in *Mill. Star,* Vol. XXXIII, pp. 460-1.

12. The orders of Black including copies of former Governor Shaffer's proclamation will be found in Salt Lake *Herald*—Daily—Vol. 11, No. 21.

13. Hist. of Salt Lake City, p. 503.

General De Trobriand assured the acting Governor that he would give the necessary order for the presence of the U. S. troops, that he would draw them up in line, and if the Utah militia attempted to join the parade he would call upon his troops to "take aim," but the order to fire must be given by the acting Governor. After this Mr. Black did not appear so fixed in his determination to carry his orders to such extremes. More temperate councils prevailed on both sides. The companies of the militia ordered into the parade, save one, marched in the procession but without arms, the bands marched and played, and the artillery were out and fired salutes;[14] U. S. troops from Camp Douglas were present, but only as spectators and the episode, which for a time threatened the peace of the occasion, and menaced even the peace of the Territory, passed without violence, but left its record in the annals of the times to illustrate, as before remarked, the policy of petty tyranny practiced in Utah toward the Latter-day Saint community.[15]

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14. Correcting some misrepresentations made by a S. L. City correspondent to the New York *Herald*, an editorial in the Salt Lake *Herald* said: "There was no 'rebellion,' as there was no 'backing-down.' The militia were ordered out to celebrate the national anniversary, and they came. As the acting-Governor 'backed-down' and concluded to make no arrests on that day—generous man—so, to avoid the appearance of trouble, the militia marched without their arms; but they marched in their allotted places except one company, whose commander failed to appear in time, though the men were on the ground. The artillery were out and fired their salutes. Why were they not arrested?" Salt Lake *Herald*, Vol. II, No. 31. Also copied into *Mill. Star*, Vol. XXXIII, p. 502.

15. Governor Woods representation of this episode or rather his misrepresentation of it is as follows: "My first conflict with the Church (?) occurred July 4th, 1871. The organic act of the Territory made the Governor commander-in-chief of the militia. The Mormon legislature, prior to that time, usurped that authority, and invested it in Daniel H. Wells, the third (officer) in the Church. On July 1st, 1871. Wells issued an order as commander-in-chief to the militia of the territory to assemble at Salt Lake City July 4th to participate in the celebration. I resented this usurpation, and forbade them to assemble, but my prohibition was disregarded. Thereupon I ordered to the rendezvous three companies of infantry, one of cavalry, and a battery of artillery, and dispersed them at the point of the bayonet. This practically ended the Nauvoo Legion." (Bancroft's Hist. of Utah, p. 662). The author quotes the above passage from *Woods' Recollections, Ms.*, p. 45 When it is considered that Gov. Geo. L. Woods was not in the Territory when the incident of the militia marching in the 4th of July parade happened, and that such steps as were taken in the matter were taken by Secretary Black as acting-Governor, the "Recollection's of Mr. Woods must be regarded as some what at fault. But this brief excerpt writes down the spirit of bragadocio of the officers sent to govern Utah in those days, and who irritated the people by the petty manifestations of their arrogance. The statement above that the Mormon legislature had usurped the authority of the governor of the Territory as commander-in-chief of the militia, and vested it in Daniel H. Wells or the lieutenant-general of the militia, is utterly untrue; as is also a statement of Stenhouse, (Rocky Mountain Saints, pp. 677) to the effect that the governors who

Both parties held what each regarded as the very greatest celebration of the anniversary of the Fourth of July ever held in the Territory.[16]

It has already been noted that at the municipal election held in Salt Lake City in mid-February, 1870, that what was to be known as the "Liberal" or anti-Church political party had its origin in a coalition of the Godbeite schismatics and the Gentiles of Salt Lake City. In the following Territorial election for delegate to congress the party determined upon putting a candidate in the field in the hope if not of electing him, then for the purpose of making a contest for the seat at Washington, where there would be at least a possibility of success in gaining the seat by a decision of the house influenced as it was likely to be by the popular prejudice against the Latter-day Saints.[17] It

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succeeded Alfred Cumming had asked to be properly acknowledged commanders-in-chief of the militia, but the legislators, by purposed delay and circumlocution passed over session after session any action that would disturb the organization of the militia. The fact is that the law of 1857, in force up to the time of Shaffer, Black, Woods and Stenhouse, recognized the governor, as commander-in-chief by providing that "The militia of the Territory of Utah, *under the Governor of the Territory as Commander-in-chief,* shall be commanded by a Lieutenant General, formed into an independent military body," etc., (Laws of Utah, compilation of 1870, ch. 138, Sec. 1.

16. The respective processions were augmented by processions from outside places, Ogden and the settlements of Davis county swelling the Mormon procession; while the mining camps and Corinne materially added to the features and to the length of the Non-Mormon procession. Naturally, on account of having such great odds in population, the Mormon procession out-classed its rival. The public meetings were held in the Mormon Tabernacle and the Liberal Institute respectively. The meeting in the Tabernacle was not exclusively a Mormon affair; for while Elder Orson Pratt offered the invocation, and Elder David McKenzie read the Declaration of Independence, the time for speech making was about equally divided between Geo. Q. Cannon and John T. Caine, on the part of the Mormons, and Mr. Alexander Majors, and the Hon. Tom Fitch, late of Nevada, on the part of the Non-Mormons. At the Institute there was also a decidedly mixed list of speakers. Gen. Geo. R. Maxwell delivered the principal oration of the occasion, followed by Col. Jocelyn and Judge Toohy, the latter from Corinne, and all out and out anti-Mormons. They were alternated with such leaders of the "New Movement," and gentlemen but recently prominent in the Mormon Church, as Amasa M. Lyman, Wm. S. Godbe, E. L. T. Harrison. "Each side in their notable celebration," says Tullidge, "ventilated its own special views and sentiments; but the grand day passed off peaceably, especially considering that Acting-Governor Black had ordered out U. S. troops to over-awe the citizens." (Hist. of Salt Lake City, p. 505).

17. Tullidge in History of Salt Lake City declares that the object of nominating a candidate for delegate to Congress at this time was to send their candidate to Washington to contest the seat, and from time to time to send one there to make such a contest whether victorious or not. "Indeed this party from its birth entertained the belief that Congress would, upon some cause, give the seat to the anti-Mormon delegate, and that Utah never would be admitted as a State until the absolute political control was placed in their hands." (p. 491).

was not altogether a forlorn hope, this proposed contest either. Once before the house of representatives had given attention to such a contest upon grounds so absurd, and by parties so contemptible, that any contest, however ridiculous, was bound to be entertained and reported upon and discussed at more or less learned length in the house, and would attract the attention of the country because of its connection with the Mormon people and their remarkable history.

The former case to which reference is here made was the McGrorty contest case for the seat held by Mr. Wm. H. Hooper, in 1867. McGrorty was for some time a small merchant in Salt Lake City, and at first very obsequious in his deportment towards the Latter-day Saints. According to a *Deseret News* editorial he was a constant attendant upon their meetings, and loud in his repeated professions of sympathy and friendliness for them.[18] Finding, however, that he could not long profitably play the hypocrite he came out in opposition to them and ran as an opposing candidate to Wm. H. Hooper in 1867, appealing especially to the anti-Mormons of Utah for their support. At the polls he received 105 votes, out of a total of 15,179,[19] and on this showing at the polls he based his contest. The law required that a contestant give notice of contest thirty days after the election; but this McGrorty failed to do, for notice of his intended contest was not served for nearly a year after the election on the plea that he was afraid that the people of Salt Lake City would learn through the telegraph from Washington, that he had filed a contest "and his life would be in danger."[20]

McGrorty's ground of contest was that of the upwards of 15,000 votes cast for Mr. Hooper eight-tenths were by foreigners who had never been naturalized, and there were other irreg-

18. *Deseret News*—Weekly—of May 27th, 1867, p. 122.

19. See *Deseret News*—Weekly—of Feb. 12th and 20th, 1868. In a spirit of mischief some one nominated a colored man commonly known as "Negro Cy," who received 6 votes. On incomplete returns Gov. Durkee and Secretary Reed sent delegate Hooper his certificate of election showing on those returns 15,179 votes, of which Hooper received 15,068, the other candidates 111—Negro Cy, 6; and McGrorty 105. The latter's votes came principally from the little mining town of Stockton in Tooele county.

20. *Deseret News* of Feb. 12, 1868—"There were upwards of 2,200 votes in this [Salt Lake] county at the election of delegate to Congress," said the *News*, commenting on the above; "out of that number 36 voted for McGrorty, we would not wonder if he should yet say that they had all been slaughtered and eaten." (Id).

ularities in the elections such as one person presenting a list of voters names, all of whom were absent from the polls, but voted by this representative as "proxy;" that Captain Hooper had been voted for at the election as representative to congress from the provisional state of Deseret—for whose admission into the Union he was to ask—as well as for delegate to congress from the Territory of Utah; and that Mr. Hooper in certain endowment ceremonies administered by the Mormon Church, had taken an oath of hostility to the United States, "and is, therefore, not a proper person to be admitted to the Congress of the United States."[21]

McGrorty was assisted by Mr. C.V.Waite,—formerly associate justice of the Utah Supreme Court—1862-3—in the preparation of his contest, which consisted of the above mentioned points with general charges of disloyalty against the whole Mormon population, also that they were alien to American principles and sentiments, and guilty of many crimes among which were sundry alleged religious murders, or cases of "blood atonement." The house received this belated notice of contest notwithstanding all its absurdities and referred it to the committee on elections.

Mr. Hooper made formal answer to these charges, but further than a general denial he would not go. He held that the contestant was not rightfully "in court." He denied the truth of the allegations concerning the irregularities in the voting at the election, and the charge that eight-tenths of the votes were cast by aliens. The alleged occurrences of outrage cited by contestant occurred, by his own showing, from eight to fifteen years before; and "even if true—*which is not admitted*—as charged by contestant, they fall far below the number and degree of outrages which occur in all newly settled Territories—and have no relation to the contest." One of the answers of delegate Hooper is of especial interest, in view of the part it has taken in nearly all subsequent congressional contests against Mormons elected to the house and senate, namely, the allega-

21. Article in *Deseret News* of Feb. 12th, 1868, "A more ridiculous proceeding than this of McGrorty's we never heard of. He was looked upon as but little, if any better, than an insane man. He was so regarded almost universally. His present action confirms the idea." (Id.)

tion that Mr. Hooper had taken an oath in the course of a religious ritual known as the endowment ceremonial, inconsistent with his duty of loyalty to the government. Mr. Hooper answered:

"The sitting Delegate . . . denies that he has ever at any time taken any oath which could in any manner interfere with his duties as a loyal, and law-abiding citizen of the United States; and he further states that to the best of his knowledge and belief, *there is no oath taken or required to be taken by the people known as Mormons, under any rule of their church, inconsistent with their duties as loyal and law-abiding citizens of the United States.*"[22]

Thus in this first contest, as in all subsequent contests, where this charge has been made, emphatic denial of it has been entered.

On the 9th of July, 1868, the house committee on elections decided the contest in favor of Mr. Hooper, and so reported to the house,[23] as before stated.

Certainly if a contest could be had before the American house of representatives upon grounds so absurd as those on which McGrorty based his contest in 1868, nothing could be barred in the way of a contest under the intensified congressional and popular prejudice existing in 1870-71.

The person nominated by the liberal party to make this contest in 1870 was Gen. Geo. R. Maxwell, U. S. registrar of the land office, all who were opposed to "despotism and tyranny in Utah" and who favored the separation of church and state; all who would stand for freedom, liberality, and progress, were urged to attend a convention to be held on the 16th of July, by the new party. The convention was held at Corrinne, Gen. P. E. Connor was elected chairman, and Maxwell was nominated by acclamation. Governor Shaffer's executive policy was endorsed; and before the close of the convention the organiza-

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22. See Hooper's answer in contest case under eleven specific denials of charges made by McGrorty *Deseret News*—Weekly—of May 27th, 1868. Also, *House* Misc. Documents 40th, Cong. 2nd Sess., No. 35.

23. See Hooper's special dispatch to the *Deseret News*, of July 15th,—Weekly.

tion was officially named the "Liberal Political Party of Utah."[24]

At the election more than 20,000 votes were cast. Maxwell received less than 1,500, half of which were alleged to be illegal, through repeating and allowing unqualified persons at Corrinne to vote.[25] Maxwell duly contested the election, conducting his case very much along the lines of McGrorty's plan, but charging Mr. Hooper with disloyalty in connection with the Buchanan Expedition troubles and the alleged endowment oath. He relied upon the intensity of the prejudice against the Latter-day Saints existing at the time for his success.[26] But in this he was disappointed, and his contest was unsuccessful. At the election of 1872 General Maxwell was again the Liberal Party's candidate for delegate. Mr. Hooper early signified to his friends his intention not to be a candidate again, as his ten years of service had left him exhausted, and he determined upon taking a much needed rest. Whereupon Geo. Q. Cannon, one of the Twelve Apostles of the Church, was made the nominee of the "People's Party," a name which came very naturally into existence as representing the overwhelming numbers of the people of the Territory who were opposed to the anti-Mormon, or so-called Liberal Party. It has been urged that the selection of Mr. Cannon as the candidate for delegate to congress at this time arose from a determination on the part of the Mormon Church leaders to have the "Mormon case in its entirety sent to Washington," and hence Mr. Cannon, "an apostle and a polygamist, was sent to congress." There is no reliable evidence for the statement, to say nothing of proof.[27] It is mere fancy that reads into the events of those days such a conception. As a matter of fact there was less inclination in 1872 to press the

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24 See Tullidge's Hist. of Salt Lake City, Ch. LIV.

25 See returns given by Salt Lake *Herald* of August 4th 1870. Tullidge puts the number of votes at 26,000 of which "Maxwell received but a few hundred." (Hist. of Salt Lake City, pp. 596-7). Id., p. 490.

26. Hist. of Salt Lake City, pp. 490-1 and 507.

27. Hist. Salt Lake City, pp. 597-8. Mr. Tullidge, I believe stands alone in this view of the case, but quotes an unnamed writer who argues the matter at length, but without becoming convincing. This in the History of Salt Lake—1886. Turning to the same author's "Life of Brigham Young, or Utah and Her Founders," —1877—one discovers the unnamed "Writer" in the history of Salt Lake City, to be Mr. Tullidge himself. (pp. 437-8).

question of polygamy upon the attention of congress or the country than at any other time, as we shall see later when considering another question. Mr. Cannon was not chosen delegate to thrust a polygamist into congress in defiance of public sentiment, but because he was undoubtedly by temperment and general character, by his grasp of public questions, and broad intelligence, by his tactfulness and his ability to make and hold friends, by his pleasing manner and cosmopolitan spirit, and, finally, by his knowledge of the west and the especial needs of his people, he was the very best man in the community at the time—Mr. Hooper eliminated—to represent Utah as delegate to congress; and having all the constitutional qualifications for the office, the people of Utah never doubted but he would be acceptable to congress, and never suspected that his advent at the capital would raise the question of polygamy in congress, and much less thrust that subject upon the attention of congress and the country.

In the election which took place on the 5th of August, George Q. Cannon received 20,969 votes; George R. Maxwell, 1,942. When the votes of the election were officially counted in the presence of Governor Woods and Secretary Black, General Maxwell, accompanied by Rev. Norman McLeod, read a protest against the certificate of election being given to Mr. Cannon, taking substantially the same ground that he did in contesting the seat of delegate Hooper, two years before, excepting the charge of disloyalty in the Buchanan War. He added, however, charges of polygamy and polygamous living; and included the charge of disloyalty to the government by reason of taking the alleged disloyal endowment oath, as in the charges against Mr. Hooper, with this variation, that Mr. Cannon had also at a specific time and place—"15th day of May, 1848, at Nauvoo, Illinois"—taken an oath to obey Brigham Young or his successors, in all things, both temporal and spiritual.[28] It was pointed

28. Mr Cannon's Answer to this allegation published in his formal denial of the Maxwell charges is as follows: "I deny that on the 15th day of May, 1848, at Nauvoo, Illinois, or at any other time or place, I took an oath or other obligation, to obey Brigham Young or his successors, in all things, or in anything, temporal or spiritual. I deny that at Nauvoo, or elsewhere, I ever took an oath, or other obligation of disloyalty to the United States, or that I ever, at any time or place, took an oath or other obligation to thwart or overthrow the government, and I utterly

out by Mr. Cannon's representatives, Mr. S. A. Mann, late Secretary of Utah and acting-Governor, and Mr. John T. Caine—Mr. Cannon being absent in California—that the Governor and Secretary's duty in the premises was purely administrative, and required them to grant the certificate to the person receiving the greatest number of votes. The fact that Congress had reserved to each house of congress, respectively, the right to determine the election and qualifications of its members deprived the Governor and Secretary of the Territory of any judicial function in the case, or any option in the matter of issuing the certificate of election. The certificate was accordingly granted to the successful candidate, and Mr. Maxwell served notice of his intention to contest the election before the House of Representatives at Washington.

At the opening of the congress—the forty-third—when the members were being sworn in Gen. Maxwell induced Mr. Merriman of New York to make objection to Mr. Cannon taking the oath, by a resolution embodying in brief form the charges against the Utah delegate by the contestant for his seat, and alleging belief of probable cause of disqualification. As an objection of this character by a member of the house is sufficient to prevent a member elect from being sworn in until the matter is disposed of, Mr. Cannon had to stand aside until the members were sworn in. Then the Merriman resolution was immediately taken up and discussed by leading members of the house, both Republicans and Democrats. The *prima facie* right of delegate Cannon to be sworn in was so clear that the vote to table Merriman's resolution was unanimous save for one vote, and

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deny that I have ever taken any oath, affirmation, or other obligation, or made any declaration, inconsistent with my loyalty and allegiance to the United States, or obedience to the government and laws thereof. (Salt Lake Daily *Herald*, of Nov. 23, 1872, where Cannon's answer to Maxwell's is given complete). Maxwell also alleged that Cannon had conspired with Brigham Young and others to coerce voters under penalty of death to vote for Cannon in the election of 1872. The nature of the charge may be judged by the answer made to it: "I deny," said Cannon's answer, "that the said voters, or any of them, were influenced by fear of Brigham Young, or any other person. I further deny that I was combined or confederated with said Young, or any other person or association, to influence the said election; or that I or any one on my behalf, or otherwise, did by duress, violence, or other coercion, compel each or any voter for me at said election to vote, under the penalty of death, or under any other penalty whatsoever." (Salt Lake *Herald* of Nov. 23, 1872).

Mr. Cannon was sworn in. Subsequently the house committee on elections disposed of the contest by reporting unanimously that Maxwell was not entitled to the seat and that George Q. Cannon was. Not satisfied with this, however, or fearing that they might be adjudged as being too friendly to Mormonism by admitting a Mormon to a seat in Congress, a resolution by Mr. Hazelton of Wisconsin, appointing a committee to investigate the Maxwell charges against Mr. Cannon was passed and the committee made such progress that it finally adopted a resolution to "exclude" the delegate, but this conclusion was arrived at so near the end of the second session of the forty-third congress that it was never considered by the house.[29]

Mr. Cannon was re-elected in 1874, his opponent being R. N. Baskin, a prominent Gentile lawyer, active in all anti-Mormon movements of the period.[30] Mr. Cannon received 22,260 votes, Mr. Baskin 4,513. The Liberal candidate was unsuccessful in the contest before the house of representatives, and Mr. Cannon continued as Utah's delegate to congress until 1882.

The elections in Utah for local officers, Territorial and municipal, no less than the elections for delegate to congress, were of interest and exhibit the intensity of the conflict waged for political control. The coterie of federal appointees including the governor, secretaries, judges and minor officers fomented discord and organized opposition to the prevailing order of things as sustained by the majority of the people—the Latter-day Saints. In the territorial election of 1871, the Liberal or anti-Church party, determined to put a ticket in the field in Salt Lake county for members of the council branch of the legislature which up to this time had been exclusively Mormon. While it was generally conceded that the ticket could not be elected, still it was confidently expected that such a showing would be made as to indicate an increasing opposition to "Mormon rule," and it was hoped that it would give strength to subsequent contests for the delegateship to congress. "We may not succeed in this

29. House Miscel. Documents, 43rd Congress, 1st session, No. 49. House Committee Reports 43rd Cong., 1st Sess.

30. Mr. Baskin arrived in Utah in August, 1865. Baskin's Reminiscence, p. 5.

election," commented General Maxwell, "but we shall poll a vote that will astonish them."[31]

A ratification meeting of the party was held in Salt Lake City, on the 22nd of July, and here it was discovered that the party made up of the Godbeite schimatics and the Gentiles of Salt Lake City and county was not altogether harmonious. The rabid speeches on the occasion of such extreme anti-Mormons as General Maxwell and Judge Toohy, the latter of Corrinne, in which the domestic institutions of the Mormon people were assailed and their leaders threatened with unusual judicial harshness, not only as to prohibiting the extension of polygamy but in disrupting existing relations, could not be approved by the Godbeite leaders who were present; and the result was a very disorderly meeting, which hurriedly adjourned to stay the tide of dissension which had set in, and which threatened the disruption of the party then and there. The next morning the Salt Lake *Herald* declared that the Liberal party was dead—"disembowelled by its own hand." Mr. C. C. Beckwith immediately repudiated his nomination, and every effort by the *Tribune* and the conservative party leaders availed nothing to stay the dissension which had arisen by the unjustifiable assault made upon the Mormon people. "The coalition," writes Tullidge, "formed by ex-Mormon Elders and radical Gentiles had been an utter failure." And this remark is justified by the showing made in the election returns, which registered an average vote of about 4,700 for the People's Party candidates; and an average vote of about 600 for the Liberal party candidates.[32]

The failure of this coalition of ex-Mormon Elders—Godbeites—and Gentiles, to adhere in an opposition political party to the People's Party is what doubtless led shortly after the aforesaid election to the formation of "The Gentile League of Utah." This was a secret organization having its membership in Salt Lake City and in the mining camps adjacent; and had for its purpose the breaking up of "Mormon Theocracy." The fact

31. The candidates were J. Robinson Walker, Samuel Kahn, Wells Spicer, and C. C. Beckwith, well known and influential citizens. Because of their high character and permanent interest in Salt Lake City and Utah, they were expected to strongly appeal to conservative Mormons as well as to the Gentile population.

32. Hist. of Salt Lake City, p. 512.

of its existence and the avowal of its purpose, rest upon the testimony of those who are competent to know whereof they speak, since they were at the time of its organization connected with the staff of the Salt Lake *Tribune,* the organ of the anti-Mormon forces. These parties were Mr. Tullidge and Joseph Salisbury. The former in his "History of Salt Lake City," writes:

"Sometime after this [i. e. after a certain disruption in the editorial staff of the Salt Lake *Tribune*] a secret society was organized in the city and mining camps, known as the 'Gentile League of Utah.' Its mission was to break up 'Mormon Theocracy.' "

Mr. Tullidge represents that when some of Judge McKean's extreme judicial acts were over-ruled by the U. S. Supreme court (of which more later) the work he had undertaken in the matter of suppressing "Mormon Theocracy," had "to be done by the G. L. U.'s; and they [i. e. anti-Mormons] did not hesitate to impress on the public mind that they were a semi-military organization. The radicals at their public meetings boldly boasted of this organization and its purposes; and Judge Haydon prophesied that the streets of Salt Lake City would run blood."[33]

For alleged "misrepresentation," of proceedings in the city council, published in the Salt Lake *Tribune,* and the paper refusing to make retraction and apology, the representatives of the *Tribune* were excluded from the council meetings;[106] whereupon it was determined to force the attendance of the *Tribune's* representatives upon the city council by the use of the Gentile League of Utah. Following is the reporter's signed statement of the plan to be adopted:

"I was afterwards directed by Mr. Fred. T. Perris, manager

33. Hist. of Salt Lake City, pp. 590-1.

106. The matter of misrepresentation was as follows: Under the caption—"*Brigham on the War Path,*" the paper said, "that Brigham Young arose and suspended the laws of the council without motion or vote," etc. This was untrue since President Young had requested the privilege of speaking, which was granted, and the rules were suspended by the council that he might do so. (See *Deseret News* —Daily—of July 31, 1872. The *Tribune's* account of the expulsion of its representatives will be found in the impression of that paper, of Aug. 3rd.

of the paper, (*Tribune*) to attend at the next regular meeting of the council, and report as usual. I said, in answer, that I presumed the council would adopt parliamentary rules and close its doors; whereupon the manager informed me that General Geo. R. Maxwell had promised to be there with 100 men of the 'G. L. U.'s'' and other secret orders, to force an entrance and insist on my taking the minutes;

''That, on the day previous to the meeting, I was in the editor's office writing, when General Maxwell came in and asked me if I was ready to go to the council the following evening. I replied, 'I shall go anyhow.' He intimated that he was ready, and the 'boys' would be there;

''That I understood the programme to be that, if any hostile demonstration were made by the mayor and council, each of them would be immediately covered by a pair of pistols, in the hands of the 100 men present;

''And furthermore, that, if Brigham Young was present, he would be a special mark;

''That, for some reason, the project was abandoned;

''That myself, accompanied by Mr. F. T. Perris and Mr. Abrahams, went to said meeting, when the motion of the preceding council was confirmed and the *Tribune* men again expelled.''[34]

On the 3rd of August, 1872, during the Cannon-Maxwell congressional campaign an out door meeting was held in front of the Salt Lake Hotel on main street to ratify the nomination of the Liberal Party's candidate. ''Mormon Theocracy'' was the object of attack by all the speakers. Its leaders were brutally

34. Hist. Salt Lake City, pp. 592 Tullidge in a footnote, declares that he requested the appointment to go to the city council meeting as representative, but his request was denied, the reason given being that his known "truthfulness and justice" would lead the city council to allow him to remain "as a member of the press, notwithstanding the expulsion of the paper of whose staff he was a member." "But harmony with the city council," Mr. Tullidge goes on to say, "fairness towards its administration, was just what the "Liberals" wished to prevent. War, not justice, was their aim. That they did also project the movement against the city authorities, as stated by Mr. Salisbury, the very fact that the *Tribune* manager, local editor and foreman of the printing establishment were at the city hall to force the presence of the opposition press is very evident as the newspaper reports and the record of the council will substantiate. The explanation, too, why the "100 men" were not at their post was, it may be presumed, no fault of the agitators, but simply because certain well known conservative business men did not enthusiastically take the responsibility Without these influential citizens Maxwell knew that his "100 men" would have been but an armed band of rioters. (Signed) E. W. Tullidge, associate editor Tribune, 1872. (Hist. Salt Lake City, p. 592, note). For the *Deseret News* account of the expulsion of the *Tribune* representatives from the city council meeting see the impression of Aug. 7th—Weekly—p. 397.

assailed, its members denounced as "dupes," "serfs," "the downtrodden," and "geese." These verbal assaults produced great excitemnt in the crowd of listeners most of whom were Mormons, and were resented by denials, hisses, yells, and groans. "Now came the business for the G. L. U.'s," says Mr. Tullidge:

"They sprang to the front. They were headed by (U. S. ex-Marshal Orr.

"Follow me 'G. L. U.'s' " he cried to his armed troop.

"They dashed after him, revolvers in hand, and formed a half circle in front of the stand. Flourishing their weapons, they awed back the people, each waiting eagerly for the command to fire into the crowd.

"For the anxious space of five minutes, it was almost certain that Judge Haydon's prophecy would be fulfilled that night, and the streets of Salt Lake run with blood.

"The writer saw their weapons brandished above the heads of their foremost men, gleaming in the flickering light of the lamps, and heard the excited cries of men eager for the word to fire.

"The 'G. L. U.'s went to that meeting anxious for the work of revolution, as the more speedy way of 'solving the Mormon problem;' and around the stand, where for a moment there seemed a favorable opportunity, this was strongly manifested.

". . . That our city did not witness on this night a mournful tragedy is due alone to the fact that no weapons were drawn by any, excepting the Liberals."[35]

The street meeting on account of the frequent interruptions adjourned to the Liberal Institute where the speaking without further interruption was concluded.[36]

On the ground of this disturbance of the street meeting a strong appeal was made by the *Tribune* for the troops at Camp Douglas to be present at the polls the next day, but the appeal was in vain, and the election passed off without disturbance.

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35. Hist. of Salt Lake City, pp. 592-593.

36. See *Deseret News* account, impression of August 5th—Daily—where a fair account is given, but no mention of the G. L. U.'s is made. At the conclusion the *News* says: "We regret the course taken by the few disorderly persons in the assemblage on Saturday night. Their object (i. e. of the Liberals) was unmistakeably to excite the people by insulting their leaders and making disparaging remarks about their religion; but even under such circumstances it is to be regretted than any symptoms of disorder or confusion were manifested. Such persons are really beneath contempt."

It is charged by these same parties, Tullidge and Salisbury, that at a mass meeting held in front of the Walker House on main street on the 12th of October another plot was formed to bring into use the G L. U.'s in the event of any disturbance of that meeting. The meeting was held to glorify the Republican success in the fall election in Pennsylvania, Ohio, Indiana, and Nebraska, foreshadowing the success of the Republican party in the re-election of Grant. And now the statement of Salisbury:

"During the day it was whispered around that an organization had been effected and that prominent men of the city authorities would be watched by the armed members of the 'G. L. U.'s.' I subsequently learned that these were under the control of the chairman and that at his given signal the body was to move *en masse*.

"I soon discovered that the programme was well arranged, and saw men known to me as 'G. L. U.'s' moving in the crowd in twos, with their hands upon their pistols, threatening those who dared utter the slightest murmur at the wanton denunciations against the Mormon leaders. It was at this meeting that the predictions uttered at the Liberal Institute and by Mr. Baskin in the *Tribune* office, were to have found fulfillment, but associate justice Strickland exposed the movement prematurely when at the first sound of an opposing voice he arose and proclaimed:

"'*The first man who interrupts this meeting I will order shot! I mean what I say and say what I mean!* . . .'

". . . I subsequently learned, from conversation among the radicals, that had there been any counter demonstration, the 'G. L. U.'s' at a given signal would have fallen back to the sidewalk, in front of the Walker House, and that a volley from them, and others stationed in the windows above would have fulfilled the prophecy of U. S. Attorney Baskin—'We'll have a hundred coffins at our next meeting!'"[37]

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37. Hist. of Salt Lake City, pp. 595-6. The statement is signed by Salisbury. During remarks by Judge Toohey last night, some person in the crowd audibly gave him the lie, when Obed F. Strickland, associate justice of the supreme court of Utah, and Judge of the first judical district proclaimed that if any one created a disturbance—or words to that effect—*he would order* such person shot! Will it be believed that such language could fall from the lips of a sworn conservator of the peace and a federal Judge, simply because of a verbal interruption of a speaker? It would not be thought of any where out side of Utah; and even here it was so glaring that Toohy could not help protesting against it." S. L. *Herald*, Aug. 13th, 1872 Also S. L. *Tribune* of 13th and 14th of Oct.

These incidents preserve the spirit in which the contest was waged between "Mormon" and "Gentile" in the troubled period under consideration.

NOTE 1. THE SALT LAKE TRIBUNE: The Salt Lake *Tribune* was a culmination of other papers which accomplished a mission and passed away. Its original, undoubtedly, was the *Valley Tan,* whose offspring was the *Vedette.* The *Mormon Tribune* was but its parent in name. After the political coalition of 1870, which brought forward Henry W. Lawrence, as candidate for the office of mayor of Salt Lake City, on the ticket of the Liberal Party, the common sense of the party quickly appreciated that the name "*Mormon*" *Tribune* must be resigned or another paper started in its stead. The transition to the Salt Lake *Tribune* was comparatively easy, yet scarcely was the change of name effected ere the new policy required that the editorial control should also change. This forced the retirement of Mr. E. L. T. Harrison, who was succeeded by Mr. Oscar G. Sawyer, who was brought on from the New York *Herald* staff to take the editorial charge.

The first issue of the Salt Lake Daily *Tribune* was on the 15th of April, 1871. The names of W. S. Godbe and E. L. T. Harrison still stood at the head of the paper; William H. Shearman, business manager; Oscar G. Sawyer was introduced as the managing editor.

The following is [from] the *prospectus* of the Salt Lake Daily *Tribune,* under the caption "Our Programme:"

"The Daily *Tribune* will be a purely secular journal devoted entirely to the presentation of news and to the development of the mineral and commercial interests of the Territory. It will have no sectarian bias and will be the organ of no religious body whatever. The aim of the publishers will be to make it a newspaper in every sense of the word. . . .

". . . On political and social questions the policy of the paper will be to sustain the governmental institutions of the country. It will oppose all ecclesiastical interference in civil or legislative matters and advocate the exercise of a free ballot by the abolition of 'numbered tickets.' . . .

". . . As a journal the *Tribune* will know no such distinctions as 'Mormon' or 'Gentile' and where sectional feelings exist it will aim for their abolishment by the encouragement of charitable feelings and the promotion of a better acquaintance. . . ."

The Salt Lake *Tribune* ran for a while under the editorial

direction of Mr. Sawyer; with him were associated George W. Crouch and E. W. Tullidge, ex-Mormon elders, and a Mr. Slocum, a leading spiritualist from California. That such a strange combination could not possibly give unity of purpose or consistency of tone to the paper was soon evident, especially as a similar inharmony existed among the board of directors. The *Tribune* in fine, changed its character, or rather mixed its characters with every issue. This 'incompatibility of journalism,' as Mr. Sawyer explained to the public in his valedictory, which existed between him and the directors, forced him also to retire from his position as editor-in-chief, after which Mr. Fred T. Perris became manager both in the editorial and business departments.

The *Salt Lake Tribune* next passed into the hands of another management. Three experienced journalists from Kansas took the paper on trial, relieving the original *Tribune* publishing company of the heavy burden of their subsidies, which had hitherto sustained it, and soon afterwards that company itself became obsolete.

Mr. George F. Prescott, Mr. Hamilton and Mr. Fred Lockley were each very able men in their several spheres. Prescott as manager of the paper sagaciously retained in his department George Reed, who had been assistant business manager both of the *Utah Magazine* and the *Tribune* from the beginning, thus retaining the local business acquaintance. It was Mr. Fred. Lockley, however, that gave the marked and pungent anti-Mormon character to the *Salt Lake Tribune*, for which it has become famous in the Gentile mind, infamous in the Mormon mind. . . . . September 9th, *1883*, the Salt Lake Daily *Tribune* passed into the hands of Mr. P. H. Lannan, and Judge C. C. Goodwin as business manager and principal editor." (Hist. of Salt Lake City, Tullidge, Appendix, p. 13). This ownership and Editorship continued until the *Tribune* was purchased by its present owners *Messrs.* Thomas Kearns and David Keith, and is now (1914), an independent Republican newspaper.

The Territorial Supreme Court of Wisconsin and its Judges

THE territorial government of Wisconsin was established by act of Congress approved April 20, 1836. The territory of Wisconsin embraced within its boundaries all the territory now included in the states of Wisconsin, Iowa, and Minnesota, and a part of what was formerly the territory of Dakota. After July 3, 1836, Congress declared that such territory should be separate for the purpose of a temporary government. The judicial power of the territory thus created was vested in a supreme court, district courts, probate courts and justices of the peace. The supreme court consisted of a chief justice and two associate justices. It was provided that a term of court should be held at the seat of the territorial government annually.

The territory was to be divided by the legislative assembly into three judicial districts, in each of which a district court was to be held by one of the judges of the supreme court at such times and places as should be prescribed by law. The jurisdiction of the several courts, both appellate and original, and that of the probate courts and justices of the peace, was to be fixed by law, but the act of Congress provided that the supreme and district courts should possess chancery as well as common law jurisdiction, and that each of the district courts should have and exercise the same jurisdiction as was vested in the circuit and district courts of the United States. Writs of error and appeals from the supreme court were allowed and were to be taken to the supreme court of the United States in the same manner and under the same regulations as from the circuit courts of the United States when the amount in controversy exceeded two thousand dollars. The jurisdiction of justices' courts was limited to cases in which the amount claimed

did not exceed fifty dollars, and excluded cases in which the title to land was in dispute. The members of the supreme court were to be appointed by the President by and with the advice and consent of the senate. Probate judges and justices of the peace were to be appointed by the governor by and with the consent of the council.

The first appointments of judges were Charles Dunn, chief justice; David Irvin and William C. Frazer, associated justices; W. W. Chapman was appointed attorney and Francis Gehon marshal. On the 4th of July, 1836, the governor, secretary and judges took the oath of office at Mineral Point, which event constituted a novel and interesting element in a grand celebration of the national anniversary which was generally participated in by the inhabitants of the lead mine region, of which Mineral Point was then the recognized metropolis.

At the first meeting of the territorial legislature, at Belmont, in what is now LaFayette county, October 25, 1836, the territory was divided into judicial districts, and the judges were assigned thereto. The counties of Crawford and Iowa constituted the first district, with Chief Justice Dunn as judge; the counties of Dubuque and DesMoines the second, with Irvin as judge; the counties of Milwaukee and Brown the third, with Frazer as judge.

The first session of the supreme court of the territory of Wisconsin was held December 8, 1836, in the council chamber of the legislative assembly at Belmont, then in the county of Iowa, now in LaFayette county. The judges present were Charles Dunn, chief justice, and David Irvin, associate judge. The proceedings of the court were confined to its organization, no judicial business being ready. John Catlin was appointed clerk and qualified as such. Justus Deseelhurst was appointed crier. The record expresses that "Hon. David Irvin presented a commission from Andrew Jackson, President of the United States, as one of the associate judges of the supreme court of the territory of Wisconsin, and a certificate of qualification from Henry Dodge, governor of said territory."

Henry S. Baird, Peter Hill Engle, Daniel G. Fenton, James Duane Doty, James B. Dallam, Thomas P. Burnett, William

W. Chapman, Lyman J. Daniels, Barlow Shackelford, William W. Gardner, Hans Crocker, Joseph Leas, William Smith, James H. Lockwood, John S. Horner, and James Nagle were admitted as attorneys and counselors of the court.

Henry S. Baird, having been appointed attorney general, took the oath of office and was duly qualified.

D. G. Fenton made a motion that the court appoint Thomas P. Burnett reporter of the court, which motion, after the court had taken a recess, was granted. Thereupon, the court adjourned without delay.

The time fixed by law for holding the next term was July 3, 1837, and the place Madison. Two judges of the court not being then in attendance, the court was adjourned until the next day; and because of the absence of a quorum the same course was taken each day until July 8, when an adjournment was taken "until court in course."

The next term was fixed for the third Monday of July (16th day), 1838. At the opening of court Judge William C. Fraser was the only member present, and an adjournment was taken until 3 o'clock p. m., at which hour Judge Dunn appeared and court was opened by Francis Gehon, marshal of the territory. William H. Banks, F. S. Lovell, H. W. Wells, Francis J. Dunn and Jonathan E. Arnold were admitted as attorneys.

The first proceeding in a cause was the entry of a rule in the case of Mau-zau-mon-nee-kah, plaintiff in error, vs. The United States, defendant in error, requiring the former to assign errors on or before the first day of the next term and continuing the cause until that time.

A number of motions were heard and acted upon; three rules were adopted, and the term was adjourned.

At the July term, 1839, (15th day of the month) the court was composed of Charles Dunn, David Irvin and Andrew G. Miller. Numerous motions were made and considered. The first mention of a written opinion being filed in a case is that of Elizabeth Mills vs. United States, on a motion to quash the writ and dismiss the proceedings. This term lasted from the 15th until the 17th of July.

The last session of the territorial supreme court was held

August 2, 1847, and the last entry of a cause is in the case of Alexander W. Stow vs. Rufus Parks, which was taken under advisement.

There was no change in the members of the court during the period of its subsequent existence. At the July term, 1839, Simeon Mills was appointed clerk in place of John Catlin, resigned, and LaFayette Kellogg was appointed deputy clerk. At the July term, 1840, Mr. Mills resigned as clerk and Mr. Kellogg was appointed. He held the office until the organization of the state supreme court.

Following are sketches of the lives of Judges Dunn, Irvin and Frazer.

Charles Dunn

By far the most prominent personality in the legal profession in the western part of Wisconsin during her territorial existence and early statehood was Charles Dunn. He was born December 28, 1799, at Bullitt's Old Lick, Bullitt county, Kentucky, about sixteen miles east of Louisville, and died April 7, 1872, at Mineral Point, Wisconsin. His father, Captain John Dunn, was a salt manufacturer at the Lick and was born in Dublin, Ireland. His mother's maiden name was Amy Burks, of the Burks family of Burks Valley, Virginia. Charles was the oldest of the family of five sons and four daughters, and at the age of about nine years was sent to school at Louisville for about nine years, when he was called home and sent on a business tour to Virginia, Maryland, and Washington. On his return home he read law for a short time with Warden Pope, a distinguished lawyer of Louisville, and afterwards he proceeded to Frankfort and continued his law reading for about two years with the eminent John Pope, then secretary of state, and who was the first law professor in the Transylvania university at Lexington.

He then removed to Illinois, and arrived at Kaskaskia, the capital of the state, in May, 1819, where he completed his law studies under the direction of Nathaniel Pope, district judge of the United States for the district of Illinois. In 1820 he was admitted to the bar. He then commenced practice at Jonesboro

in Union county, Illinois, and in 1821 married Miss Mary E. Shrader, daughter of Judge Otho Shrader, who had been an United States judge in Missouri territory. Mr. Dunn remained in practice at Jonesboro for several years, and then removed to Golconda, in Pope county. For two sessions he was engrossing clerk of the Illinois house of representatives, and for about five years its chief clerk. In 1829 he was appointed by Gov. Ninian Edwards acting commissioner of the Illinois and Michigan canal, and with his associates, Edmund Roberts and Dr. Jayne, surveyed and plotted the first town of Chicago. In the early part of 1832 Indian troubles commenced and a requisition was made upon the state for troops to engage in service against the native Indians headed by Black Hawk. Three brigades of volunteers responded to the call, and Mr. Dunn entered the service and engaged in the Black Hawk war as captain of a company which he raised in Pope county, where he then resided. His company was assigned to the second regiment, commanded by Colonel John Ewing, attached to the first brigade, commanded by General Alex. Posey. General Posey's command crossed the Hook river at Fort Dixon, and, marching next towards Kellog's grove, received intelligence of a severe conflict between Colonel Dement's spy battalion and the Indian forces under Neopope. After a rapid march General Posey's forces reached the grove and found that Colonel Dement's command had routed the Indians, whereupon they followed the trail of the retreating Indians up Rock river, out of Illinois, and into Wisconsin. Captain Dunn was severely, and it was thought fatally, wounded in what is now called the town of Dunn, in Dane county, by a cowardly sentinel whom he, as officer of the day, was proceeding to relieve. He was taken back to Fort Dixon, where he remained until the close of the war by the battle of Bad Axe.

As soon as he had sufficiently recovered he returned to his home, and in the spring of 1833 acted as assistant paymaster in paying off the first brigade; and during that year resumed the practice of his profession. In 1835 he was elected from Pope county to the house of representatives of the state legislature, and was chairman of the judiciary committee during the ses-

sion. In the spring of 1836 he was, upon the recommendation of the Illinois delegation in Congress, and the delegate from Wisconsin, George W. Jones, appointed by President Jackson chief justice of the Wisconsin territory. He arrived at Mineral Point on the 4th day of July, 1836, and was then sworn into office, which position he continued to hold until the state judiciary was organized, holding his last term of court under the territorial organization at Mineral Point in October, 1847.

The first term of the supreme court of the territory, as well as its first legislature, convened at Belmont, now in LaFayette county, in the fall of 1836. Judge Dunn about this time took up his residence at Belmont and lived there until his death in the month of April, 1872. The present village of Belmont, on the C. M. & St. P. R. R., is three miles to the southeast of the territorial capital. Leslie station, on the Lancaster and Galena branch of the C. & N. W. R. R., is within a half mile of the site of the old capitol and a little nearer to the Dunn residence. There is not a vestige left of the capitol building; tradition says that its substantial frame was removed to a neighboring farm and was there made over into a barn.

The location is one of great natural beauty. Within a radius of a mile, and directly east from the site, is the Belmont mound. A little south of west and three miles from Belmont mound, stands the Platte mound. These mounds are upon a high plateau, and are both about a half mile in diameter at the base and about five hundred feet high. In the gently undulating prairie country which surrounds them they are very prominent objects, and from their summits can be seen the three states of Wisconsin, Illinois and Iowa. When Judge Dunn made Belmont his residence it was with the hope and expectation that it would be the permanent seat of government of the territory and future state. Madison, the City of the Lakes, soon after won the prize, but Judge Dunn's attachment for Belmont, its natural beauty and quiet, never waned.

Judge Dunn's term of office as territorial chief justice from 1836 until the admission of the state into the Union in 1848, was no sinecure. He not only presided over the appellate court but in addition was nisi prius judge of the first district, comprising

the present counties of Dane, Green, LaFayette, Grant and Iowa, and all the territory north and west of the Wisconsin river and east of the Mississippi. These onerous and manifold duties he discharged well and honorably.

He was a member of the last constitutional convention of the state, from LaFayette county. He was president pro tem, of the convention and chairman of the judiciary committee, over which body he exercised a commanding influence. The valuable reservations and provisions of the constitution in the interests of the people were largely the result of his broad, far-seeing mind and absolute integrity. The power reserved to the legislature to alter or repeal the charter of any corporation created by it was his work.

He favored a limitation in the constitution of the right of suffrage to citizens of the United States who had lived in the state one year, only excepting those who resided in the territory at the time of the admission of the state. In the rejection of this proposal he was disappointed. With the experience of the state, it is not certain that at this day his advice would not be followed in that respect.

Judge Dunn was a candidate for the United States senate in the democratic caucus of the first state legislature, but was defeated by General Dodge. This disappointment, with the advent to power soon after of the republican party, terminated his political career. He was not a politician and knew nothing of the methods essential to political success, nor had he a desire to learn them. His manhood revolted against the scheming and trickery of the inveterate office-seeker. He lived and died in the Mississippi valley, never having seen the capitol of the nation, or either ocean which washes the shores of the republic.* From the time Wisconsin became a state Judge Dunn lived quietly at Belmont and practiced law, meeting his clients for consultation generally in his country home, and traveling about the circuit in his own conveyance, attending the terms of court

*In 1858 Judge Dunn was a candidate for Congress against C. C. Washburn, and in 1869 was induced to accept the Democratic nomination for chief justice of the supreme court and became a candidate against Luther S. Dixon. He was defeated in both instances; in the latter the vote was 65,683 for Dunn and 72,470 for Dixon.

in the different counties. It was during this period that the older members of the bar remember him, his associates prior to that time having all passed away. In those days hotel accommodations were limited and inferior. Judge Dunn's room was always the best room in the best hotel of the town where court was in session, and was universal headquarters for members of the bar, no matter how distinguished or humble. Frequently every facility for seating his guests, even to this bed, would be taxed to the utmost capacity, and there the long evenings were spent in social communion, eminently satisfying to all, in which the judge was the principal actor. His hospitality was genuine and unlimited. Every worthy member of the bar had in him a friend. He had no use for the unworthy members of the profession, and they instinctively knew it.

During this period Judge Dunn was employed in many important cases. He commenced very few of them, but was employed to assist at the trial, and no more effective advocate has ever practiced at the Wisconsin bar. He was not demonstrative in argument. His strength consisted in the strength of his own convictions, beyond which he would not go, expressed in a quiet way, in plain but classic diction, and as forcible as language could be made. His character for integrity added force to his arguments with the court or jury. No one could withhold respect for the man. He was well-versed in the principles of the law, and was possessed of a mind preeminently analytical.

While at the bar he paid little attention to the reported cases, never troubling with them except when they were thrust upon his consideration by his opponent. He was a great moral power, untainted with falsehood in any form, and this power was directed by the most undaunted courage. He was universally courteous and considerate in his intercourse with the court and bar. If he had resentment to vent, a keen rapier wielded with a bow did the work more effectually than anger's bludgeon could have done it. The following incident will illustrate:

The judge was the attorney for the husband and defendant in a divorce case in LaFayette county, which excited great public interest and filled the court house with spectators during a trial which consumed nearly two weeks. The sheriff was the

late Major Kyle, a prince of good fellows, a great friend of Judge Dunn's, very polite and inclined to gallantry. It was noticed during the trial that whenever the fair plaintiff and her female friends who attended her came into the crowded court room the sheriff met them at the door and conducted them through the crowd to seats reserved for them, while the modest defendant was permitted, alone and unaided, to edge his way through the press to the side of his counsel.

This annoyed Judge Dunn, but no one was aware of it until he commenced his plea to the jury. In opening he alluded to the sympathy for the wife which pervaded the court room and doubtless to some extent affected the jury. "Even," said the judge, "my friend, Major Kyle, has shown himself during this trial to have been affected by this insidious influence, and while the defendant, my client, has been permitted to make his way through the crowded court room to the side of his counsel, as best he might, the fair plaintiff with her numerous attendants has been met by the gallant sheriff at the door of the court room, and conducted by him to seats reserved for them, in a manner which seems to say: here comes the distinguished plaintiff and her retinue, make way before them." The jury and spectators appreciated the point, and Major Kyle's pride received a severe blow from which it took him some time to recover.

Personally, Judge Dunn was large and stalwart, capable of great endurance. He was fond of hunting in his early and middle life, when the country abounded in game. The wound he received in the Black Hawk war made him a little lame ever afterwards. His gestures while speaking were very peculiar, consisting exclusively of movements of the hand and forearm, the arm above the elbow remaining stationary.

An inveterate old litigant of Grant county, who knew the judge well and had felt his great power with a jury frequently, said of the judge's only gesture that it reminded him of a "pump-handle." He had, however, the greatest confidence in the "pump-handle" and its worker when enlisted on his side of a case, and the greatest fear of the combination when enlisted on the side of the opponent.

The course of Judge Dunn was marked. The following incidents as described by the pen of the late Moses M. Strong will illustrate:

"In 1836 an atrocious murder had been perpetrated in Grant county, and the person charged with the crime committed to jail to await the action of the grand jury. He was brought before Judge Dunn upon a writ of habeas corpus, who, after a full investigation, admitted the prisoner to bail, which be obtained and was set at liberty. The inhabitants in the vicinity of the murder were very much incensed, and assembled in large numbers, with the avowed intention of lynching the accused, who only saved his life by flight. His sureties were also compelled to leave the territory at the hazard of their lives. The mob, in which were some very respectable citizens, also passed a resolution (of which they notified the judge) that if he attempted to hold another term of court in that county, it would be at the risk of his life.

"On the day appointed for the holding of the court, the judge appeared as usual, without guard or escort, as calm and undisturbed as though he was entirely ignorant of the menaces of the mob, many of whom, as he knew, were in attendance, and, without having even spoken to any member of the bar or to the sheriff of the danger with which he was threatened, he took his seat upon the bench, with his accustomed quiet dignity, and ordered the sheriff to open court. It was observed that he took with him to his seat his saddle bags, and placed them immediately by his side. This was his arsenal. The firm, determined and resolute purpose of the judge to hold court at that time and at that place, in despite of all threats of personal violence, was so unmistakably developed in every lineament of his unblanched features that all appearance of mob violence was effectually subdued. The sheriff opened court, and its business proceeded in the usual orderly manner."

This occurrence brings to mind the case of the prosecution of Vineyard of Grant county, for the killing of Arndt, in the territorial council chamber in Madison, on the 11th day of February, 1842. The quarrel arose over the confirmation by the council of the nomination of one Baker as sheriff of Grant county, made

by Governor Doty, which Vineyard opposed and Arndt favored. In the heat of debate Vineyard in effect charged Arndt with falsehood, which charge Arndt, immediately upon the adjournment of the council, demanded Vineyard should retract. This the latter refused to do, and Arndt struck him one or two blows with his fist. Vineyard thereupon shot Arndt with a pistol, killing him instantly.

The public was instantly excited over the event, which was the more terrible from the fact that Arndt was shot down in the presence of his aged father, who was then visiting him. Prejudice ran very high against Vineyard, and, on the 14th of February he was expelled from the council by a vote of ten to one. He remained in jail at Madison until the 10th of March, when he was taken before Judge Dunn on a habeas corpus at Mineral Point, when, after a thorough examination of the facts, the judge admitted him to bail in the sum of $10,000.

Here again Judge Dunn was severely criticized, and Charles Dickens, the novelist, who was then in America, and incidentally engaged in collecting material for his "American Notes," subsequently published, refers to this action of Judge Dunn's as an incident showing the reckless disregard of life in this country. The judge's course was, however, subsequently vindicated by the acquittal of Vineyard by a jury of Green county, where he was tried.

Much has been said about the trial of Vineyard. The sentiment of the time attributed Vineyard's acquittal to the matchless eloquence of his counsel, the late Moses M. Strong, of Mineral Point; and, as in those days the standard of an advocate's moving power was supposed to bear a close relation to the quantity of liquid stimulant imbibed, it was said that Mr. Strong, during his plea to the jury for the accused, frequently regaled himself with whisky diluted with water. A statement of the kind was published in the New York *Tribune*.

Mr. Strong, however, later in life, when the events of the trial could be dispassionately referred to, repudiated the idea that he addressed the jury while intoxicated to any extent, and stated the fact to be that the result of the trial was brought about in a manner more consistent with the experience of the lawyer of

today, and much more in keeping with the prevailing characteristics of Mr. Strong, whose indomitable energy and attention to details all who knew him well must acknowledge, and that hard work before the trial rather than stimulant accomplished the result.

Mr. Strong is authority for the statement that his agents, for months before the trial, traversed Green county, adroitly eliciting from different individuals their views as to the degree of personal insult which would justify the taking of life. The information thus obtained enabled Mr. Strong to pass or excuse jurors as the interests of his client required. The population of Green county at the time was less than 1,600, so that the number of qualified jurors in the county did not exceed 300.

In presenting to the supreme court the resolutions adopted at a meeting of the bar of the state, held not long after the death of Judge Dunn, E. G. Ryan (so soon to join his great contemporary) said: "It was Judge Dunn's lot in life to fill many stations—professional and lay, executive, legislative and judicial. So far as I know, or have been able to learn, these sought him rather than he them. He certainly intruded himself into none of them. There was a modesty in the man which was rare in his generation. I think that his own estimate of his powers was below, not above, the estimate of all who knew him well. And he was a thoroughly earnest man. He filled all his offices with a singular fidelity and zeal, as if each in its turn were the chief end of his life. To say that he filled them with ability would be but faint praise. He did not achieve success in them by just escaping failure. He was a faithful officer; his offices were never below him, but he was above them. None of them gave opportunity of showing all he was, of calling out the strength that was in him. They were all respectable, some of them high; but his intellect, his culture, his general capacity towered far above any station he ever occupied. We mourn for the untried powers which die out of the world with the young. Let us mourn for the world when it suffers great powers to die, unused in its service, with the old.

"In his life Judge Dunn saw many men around him reach stations which he did not reach. Some of them rose worthily

and usefully. Some rose only to show their unfitness. With like pliancy or like artifice he, too, might have risen where his inferiors rose. But he was above these, and, standing below on the solid level of his own life and character, he ranked the superior of most and the equal of any of his contemporaries. He might have ennobled many positions filled by them—none of them could have ennobled him.

"His character was solid, strong and resolute, but not stern or harsh. His stronger qualities were softened by great sense of humor and kindness of heart. He was generous and trustful to a fault. His foibles, for, like all born of woman, he had them, all arose from his genial character, the warmth of his heart and the kindness of his temper. Strong in character among the strongest, he was, in carriage and manner, gentle among the gentlest. His culture was of a high order, in and out of his profession. His knowledge of men and things, of the world and its ways, was profound. There were singularly combined in him the sagacity of a man of the world and the personal simplicity of a child. His sense of self-respect was unerring, and never deserted, never betrayed him. It is little to say that he was the soul of honor. He could be nothing that is false or mean. He did not know what treason was. That which he believed, that which he loved, that to which he gave his faith, were parts of himself. He could not desert faith or friend or duty, without betraying his own life. Dishonor in him would have been moral suicide."

David Irvin

Judge Irvin succeeded Judge Doty as judge of the new court created by Congress as a part of the judicial system of the territory of Michigan. His birthplace was in Albemarle county, Virginia, about 1794. His parentage was Scotch-Irish, his father being a Presbyterian minister and a teacher of the dead languages. As a practitioner in the Shenandoah valley, Virginia, Mr. Irvin did not meet with marked success. In 1837 President Jackson appointed him as judge of the court mentioned, and subsequently, on the organization of the territory of

Wisconsin, appointed him as associate justice of the territorial supreme court. In the preface to Vol. I of his reports of that court Mr. Pinney (now justice of the supreme court) says of Judge Irvin: "He was not considered a profound lawyer, but with a strong vein of practical common sense and a natural love of justice, after hearing the arguments and examining the authorities, he was generally enabled to give correct and satisfactory decisions. He had a retentive memory and was a close and discriminate observer, which enabled him to accumulate a vast stock of information of a practical character and of much minuteness. He had a keen relish for field sports, and felt a particular interest in his horse, his dog and gun.

"He detested all vices, and in that respect was an exemplar worthy of all imitation. For his social virtues he stood high with the bench, the bar and the people. The discharge of his judicial duties always seemed irksome and disagreeable to him, and he passed no more of his time in Wisconsin than was necessary to hold his courts, and was as much a citizen of St. Louis as Madison—of Missouri or Virginia as Wisconsin. He always preferred southern society, and as soon as his term of office was ended he went to St. Louis, where he remained some time, and subsequently went to Texas," where he made large investments in wild cotton lands, which brought him wealth. He continued to reside there during the civil war and supported the Confederate cause. His death occurred June 1, 1872.

Edwin E. Bryant, in his contribution to the Green Bag (Vol. 9, page 27) on The Supreme Court of Wisconsin, relates these incidents of Judge Irvin: Among the traditions of Green county, where he sometimes held the term, it is remembered that he would adjourn court at a moment's notice to go shooting chickens. He used to say that "his horse, Pedro, had more sense than any lawyer in his court." He was in the habit of consulting Mr. Whiton before deciding a cause, to get an idea of what the law was. It is recorded that in 1841 he gave the following charge to a jury: "It appears from the evidence that the plaintiff and defendant in this action are brothers-in-law. On the Wabash river, in Indiana, they associated themselves together for the purpose of swindling their neighbors. Not content with

that, they got to swindling each other, and I am like the woman who saw her husband and a bear fight. 'Fight husband, fight bear, I don't care which whips.' And, gentlemen of the jury, it is a matter of indifference to me how you bring in your verdict." Five minutes after the jury had retired the sheriff was instructed to see if they had agreed. Informed that they had not, he immediately ordered in the jury and discharged it.

Another incident of him was told by Andrew E. Elmore, well known in the state for half a century as the "sage of Mukwango." In a speech in the legislature, to illustrate the uncertainty of the laws, he said that he once had a case on trial before Judge Irvin. The case seemed very clear for him, and the jury brought in a verdict in his favor for the amount of the claim. Just then, as the winner of the suit sat in the bar with his counsel, the judge's dog "York," became annoyingly familiar, and he unluckily gave the dog a kick, which caused a yelp to reach the master's ears. The judge's brow instantly grew dark and he set the verdict aside.

William C. Frazer

President Jackson appointed William C. Frazer, of Pennsylvania, an associate justice of the supreme court of the territory on the organization of the latter in 1836. But little is known of the career of Judge Frazer, except that he held that office to the time of his death, which occurred at Milwaukee, October 18, 1838, aged sixty-two years. It is said of him in Vol. I, Pinney's Reports, that "His career in Wisconsin was so brief and unimportant that but little is now remembered of it beyond the anecdotes found in the published collections of the Wisconsin historical society, except that which is in a great degree traditional. The only written opinion given by him in the discharge of his judicial duties, of which there is any trace, will be found in the report of the case of the United States vs. Mauzau-mau-ne-kah (I Pin. 124), who was indicted, tried and convicted before him at Green Bay for the murder of Pierre Paquette, the interpreter of the Winnebago nation of Indians.

"At the time of his appointment he was considerably ad-

vanced in years, and his intemperate habits rendered him unfit for the position, though it is said he had been a lawyer of average learning and ability."

Strong's Territorial History* gives a more detailed account of Judge Frazer's first terms of court, and that account varies a little in one particular from that already quoted: "On the 22nd of May (1837) Judge William C. Frazer held at Depere (near Green Bay) his first term of court, which continued until the 30th of May. No civil cases were tried in consequence of the disarrangement of the records and papers. The criminal calendar, however, was generally disposed of." Mention is made of the trial of the Indian before referred to, and of the fact that he was defended by John S. Horner, who was appointed by the Court for that purpose. The cases of Amable Carbonno, for the murder of his wife, and of two Indians for the murder of Ellsworth Burnett, were transferred to Milwaukee County for trial. Joseph Dutcher was convicted of burglary and sentenced to seven years solitary imprisonment in the county jail at hard work and a fine of one hundred dollars. John O'Donnell was convicted of keeping a disorderly house and selling liquor to an Indian, and was fined fifty dollars for the first offense and one hundred for the second. Judging by newspaper comments, Judge Frazer's first appearance on the bench in Brown County was highly creditable, and in marked contrast with the manner in which his judicial functions were subsequently performed.

"Judge Frazer's first term of court at Milwaukee was held on the 14th of June (1837). The two Menomonee Indians, Ash-e-co-bo-ma and Ash-o-wa, indicted in Brown County for the murder of Ellsworth Burnett, on the bank of Rock river, in the month of November, 1835, were tried. Their trials were separate. The counsel for the prosecution was W. N. Gardner, District Attorney, and Hans Crocker; for the defense, H. N. Wells and J. E. Arnold. The jury returned a verdict of guilty against Ash-e-co-bo-ma, the father, who was sentenced to be hung on the first day of September. A nol pros. was entered by the District Attorney, by the advice of the Court, in the case of the younger

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Indian. Amable Carbonno, indicted for the murder of his wife in Brown County, was so reduced by sickness and long confinement that he had to be brought into court on a bed, in which condition he was tried. The prosecution was conducted by F. Perrin and J. E. Arnold, and the defense by Henry S. Baird. He was found guilty of manslaughter and sentenced to ten years imprisonment in the common jail of Brown County, and to pay a fine of one thousand dollars. The sentence was superseded by his death, which resulted from his disease within twenty-four hours after rendition of the verdict."

A fuller account of Judge Frazer's judicial career in Wisconsin than is known to exist elsewhere is given by Joshua Stark in the "History of Milwaukee County." Judge Frazer opened his first term of the district court in Milwaukee county, June 14, 1837. He was a resident of Pennsylvania at the time of his appointment and never removed to the west. Although a man of fair ability and many years experience as a lawyer, he had fallen into intemperate habits and his health, both physical and mental, had become seriously impaired by excesses. He was sixty years old and nervous, impatient, arbitrary, and often harsh, overbearing and offensive in his judicial conduct and in his treatment of the members of the bar. The few lawyers who appeared before the Judge at his first term were nearly all young men, but men of unusual ability and preparation for professional life. Leaders among them were Jonathan E. Arnold, of Rhode Island, a graduate of Brown University, and John R. Tweedy, of Massachusetts, who had been graduated from Yale College. Both of these gentlemen had taken up their residence in Milwaukee in 1836. The first term lasted but two weeks. In November, 1837, the second term was held, at which the disagreeable traits and habits of Judge Frazer were so emphasized as to arouse a general feeling of disgust, and to induce the bar and many citizens to exert themselves to secure his removal. A committee was appointed to wait upon him and request his resignation, which he refused in offensive terms. The following winter was spent by the Judge at his home in Pennsylvania; but in June, 1838, he reappeared and held the term. Little business was done. There was no confidence in the court or in

judicial proceedings as conducted by the presiding judge. In September, 1838, the report became current that Judge Frazer, in a card adressed to the publisher of a Green Bay paper, had announced his intention to resign his office, to take effect October 2nd, "according to a determination long since made."

The satisfaction felt and freely expressed by the bar and people of Milwaukee at this welcome news was short-lived. For some reason the Judge changed his plans, and on the 14th of October, 1838, returned to the city by steamboat from Buffalo via Chicago, intending to hold the fall term of court. The passage had been very rough and his weak and debilitated frame could not endure the excessive strain of illness and fatigue to which he was exposed. He was taken on shore in a dying condition, and on the 18th of October, 1838, died.

Many stories are told of eccentric orders and judgments of Judge Frazer, which, if authentic, would fully justify the charge of gross unfitness for the office he held. The records of the court while he was Judge show no trace of these singular proceedings. On the contrary, they indicate a strict regard for judicial forms and proprieties. This is perhaps largely due to the fortunate circumstances that the clerk who kept its records during this time—Mr. Cyrus Hawley—was a man of superior intelligence and carefulness in the discharge of his duties.

A somewhat peculiar judgment entered by Judge Frazer at his first term, in a criminal case, would seem to indicate special solicitude for the rights of the accused. An Indian named "Ash-e-co-bo-ma" was tried for murder, convicted and sentenced by the Judge to be executed on the first of September, 1837. Ash-e-co-bo-ma and another were next tried for an assault with intent to kill, and both were convicted. Each was sentenced to pay a fine of three hundred dollars and the costs of the prosecution, "and be imprisoned by solitary imprisonment in the common jail of the county of Milwaukee for the full term of five years from this date;" but the Judge carefully provided against double punishment by adding as part of the sentence, "The latter sentence to go into effect in the case of Ash-e-co-bo-ma if he is pardoned on the sentence previously pronounced for murder by his Excellency, the Governor." The

first day's proceedings in Judge Frazer's court included the admission of Henry S. Baird, Hans Crocker, Augustus Story, Marshall M. Strong, Nathaniel F. Hyer, William N. Gardner, John P. Hilton, John H. Tweedy, Rufus Parks, Franklin Perrin, Horatio N. Wells, Jonathan E. Arnold, John Hustis, and William Campbell, as attorneys. The Grand Jury was composed of William A. Prentiss, foreman; Everson P. Mayward, Allen O. T. Breed, Samuel Sanbourn, Benoni W. French, Samuel Brown, Samuel Hinman, James H. Rogers, William B. Sheldon, Pleasant Field, James Sanderson, George Bowman, John T. Haight, Calvin Harmon, George S. West, Alamon Sweet, Benjamin H. Edgerton, Henry M. Hubbard, William R. Longstreet.

When the testimony on the trial of Ash-e-co-bo-ma for murder was all in, Judge Frazer took out his watch and, noting time, laid it upon the table, thus adressing the lawyers engaged for the prisoner: "I will give you fifteen minutes each to make your arguments to the jury in this case, and no more." Vainly did they protest against such tyranny. Mr. Arnold had hardly entered into the first of his argument when time was called. He and Horatio N. Wells were each allowed ten dollars by the court for defending the case.

During the course of the term the following, in addition to those already mentioned, were admitted as attorneys: Erasmus D. Phillips, William A. Frazer, John Richards, Eliphalet Cramer, Clinton Walworth and Aaron Woodman. With the latter the court had some trouble. On the record on the 20th of June it was "ordered by the court that Aaron Woodman take his seat, and he replied that he would not. Ruled: That he show cause for contempt of court, returnable at ten o'clock to-morrow morning. Service acknowledged by said Woodman in open court."

Upon calling court the next morning the first business was the matter of "contempt;" and Mr. Woodman was called upon to answer. Thereupon a member of the bar arose, and calling attention to a petition held by him, asked leave to read the same, which was granted. The petition was signed by "Rufus Parks, Chairman," and "J. E. Arnold, Secretary," and read by the former. It expressed that the subscribers, members of the bar

of Milwaukee county, believed that the difficulty arose from a misapprehension in the mind of the court, and the statement of facts, drawn up and unaimously agreed upon at a regular meeting of the bar, at which all the members were present, and which were given was, in brief, that the language which the court thought Mr. Woodman had addressed to it was directed to a brother lawyer. The petitioners asked that the offensive words be expunged from the records, and that the rule made in consequence thereof be discharged.

The following is an account given concerning Judge Frazer's conduct on his first arrival in Milwaukee. "The Judge reached Milwaukee in June, 1837, on a Sunday evening, from holding court in Green Bay. He put up a small hotel, then kept by a Mr. Vail. He at once fell in with some old friends, who invited him to a private room for the purpose of having an innocent game of poker. There were in the party, besides Frazer, an United States official connected with the land office, and two or three others. They commenced playing for small sums at first, but increased them as the hours passed. By the dawn of the next morning small sums seemed beneath their notice. The early hours were heralded to them by the ringing of the breakfast bell. The Judge made a great many apologies, saying, among other things, that as this was his first appearance in the territory (Milwaukee), and as his court opened at ten o'clock that morning, he must have a little time to prepare a charge to the Grand Jury. He therefore hoped they would excuse him which the residue of the party did, and he withdrew.

"The court met at the appointed hour, Owen Aldrich acting as sheriff and Cyrus Hawley as clerk. The Grand Jury was called and the members sworn. The Judge, with much dignity, commenced his charge; and seldom, perhaps, was there such a charge given from the bench. After dwelling upon several laws that it was thought necessary and proper to call their attention to he alluded to the statute against gambling. The English language was too barren to describe his abhorrence of that crime. He said that a gambler was unfit for earth, heaven or hell, and 'God Almighty would even shudder at the sight of one.'"

The College of Arms of Canada

[From Canadian Archives and Diplomatic and Parliamentary Documents].

THE Seigneurial Court and College of Arms of Canada commence with the first commission granted by the King of France, Francis II, to the Marquis de La Roche, the first Governor, that the lands of Canada shall be conceded in fiefs of duchés, Marquisates, counties, viscounties, baronies and other seignories to the members of the noblesse, military officers—as well as to other men of merit admitted to the noblesse—on condition that they consent to "hold the country in tuition and defense." This commission made it necessary to *keep the records* of the nobility, (the military order, the magistracy, and the men of merit) who were endowed with these fiefs, and this registration constitutes the beginning of the *College of Arms of Canada.* It made necessary also the consultation of those thus registered in the College of Arms on "the tuition and defense of the country" with which by the King they had been endowed; and this constitutes the beginning of the *Seigneurial Court of Canada.* It is plain to see that in the absence of the King of France, and of his chosen representative, the representation of the Crown of France in the country *vested in the Seigneurial Court,* or assembly of the Noblesse. This condition was well recognized under the ancient regime, because during the absence of the King's governor on several occasions the administration of affairs passed to the Baron de Longueuil who was the premier Baron of Canada and therefore chief of the *Corporation of the Noblesse* whose assembly constitute the Seigneurial Court. Again, when the Kings of France did not send governors from France they chose their governors from the Seigneurial Court or Corpora-

tion of the Noblesse, of which examples the D'Ailleboust Repentigny, Iberville, Bienville, and Vaudreuil, names attest *with never an example to the contrary.*

In 1672 the Count de Frontenac, Royal Governor, to obtain the sanction of the administration from those in the country who had the "tuition and defense" thereof, assembled the Noblesse, the Bourgeoisie and the Clergy in the States-General of the Province Cenvoqued to meet in the chapel of the Jesuits at Quebec.

The consent of the *Corporation of the Noblesse* (whose assembly constitutes the Seigneurial Court) was necessary for the transfer of Canada from the Crown of France to the Crown of England on account of its participation in the sovereignty of the country. For this reason the Seigneurs are mentioned in the 37th Article of the Capitulation of Montreal of 1760 signed by the Marquis de Vaudreuil, for the King Louis XV and agreed to by Sir Jeffrey Amherst for the King George III. In this article the Seigneurs are to retain all their privileges, rights and goods as under the Crown of France. This obligation was maintained in the subsequent Treaty of Cession of Paris of 1763 in the Clause that the King of Great Britain binds himself to observe the treaties and obligations regarding Canada which had been contracted by the Kings of France, his predecessors. And that he inherits the sovereignty of the country in the same manner that it had been held by the Kings of France;—that is with the Corporation of the Noblesse as the local factor thereof.

When Canada was ceded by the King of France to the King of Great Britain by the terms of the Treaty of 1763, the government of Great Britain found the Noblesse in Canada to be the prime factor of the constitution and the legitimate power of government.

The Report of General Murray, first British Governor of Quebec to the British Government in 1763 (French edition, constitutional Documents, Canadian Archives, p. 44) described the divisions of the people according to the constitution, thus:—The Canadians are classed in four categories:

1. "The superior class termed the Noblesse."
2. "The Clergy."

3. "The Merchants, commercial class, the Bourgeoisie."
4. "The peasants, called here, the Habitants."

"The Noblesse are those descended from Officers, Military and Civil, who established themselves in the Colony, and who held in the troops of the Colony those offices which permitted them to exist— The Nobles are generally poor except those who have held command of stations— The decoration of the order of St. Louis is considered by them of greater value than material wealth. They are very proud and look with contempt on those pretentions of the commercial class which are founded on money."

In the report of General Burton, British Governor in Three Rivers in 1762 (ibid, p. 47) he wrote thus:— "The Seigneurs in virtue of their original right have the power of naming the judges and of the administration of justice in their own districts even in cases of capital accusations."

In the preface of Tanguay's *Dictionnaire Généalogique du Canada* it is mentioned that official appointments in Canada Military and civil were reserved for men of honourable birth and education.

In *Palfrey's History of New England* it is stated that under the Royal régime before 1788, the "Magistray was reserved for men of quality." In Raper's *History of North Carolina,* Sanborn's *History of New Hampshire* and in the Historical Collections of South Carolina, and "History of New York" it declares that under the Royal Régime (before 1783) the official list Military and Civil was reserved for the gentry and men of family and education. In the filing of old petitions for official commissions during this régime there is scarcely a document that does not mention the honorable family antecedents of the applicant. It was because from a remote period all official appointments had been the "Apanage" of the aristocracy and the reference to family distinctions on the part of the applicant was kept up during the ancient Royalist Régime as an influential accessory to the applicants other recommendations. These very requirements were impediments under the succeeding democratic and parliamentarian régimes in the British Colonial Empire, in France (Republican) and in all other states where

democratic prejudices had a preponderating influence. In a recent Gubernatorial election in South Carolina the opposing candidates rivaled each other in claiming a vulgar origin as a recomendation for the popular vote. The same occurs in modern business affairs where sycophancy, chicanery, and commercial trickery have endowed a class with pluticiatic power that has neither honorable antecedents nor nobility of character. Feuillée in his "*Psychologie des peuples Europeens*" says, that in modern England (since 1800) "each new ministry on retiring leaves a lot of rich vulgarians elevated to the condition of Lords, while the Aristocracy of the three kingdoms retires further into the background." Cucheval-Claringy says of Republican France: "The democracy has a hatred for natural superiority and endeavors to crush it out."

MacIntosh of Georgia says of the American democracy: "The vermin of the people have driven out the better classes so as to rule alone."—Sabine's "American Loyalists."

In Canada which is the worst of all on account of the hypocracy of the people, and their organized envy and malice under two political parties who illustrate what Emile Faguet (French Academy) says of democracy everywhere in his book "Le Cult de L'incompetence," it is only necessary to quote from the state paper of Governor R. S. Milnes, to the Duke of Portland (Canadian Archives 1892, p. 9, Nov. 1, 1800), "that unless the Aristocracy receive the due and legal recognition of their rights of representation that the lower orders of the people through their dishonest and unscrupulous leaders will make of the constitution a dangerous weapon for the ostracism and destruction of the flower of the population. It is for this reason that the same rule of judgment does not apply now in regard to the estimate of those who have succeeded in authority. Then it was the Aristocracy of Race—the noblesse de Race—in power; now it is democratic and plutociatic mongrelism—the canaille. It was on account of this fact that in 1760 the official list being found by investigation of the said documents of application to be in control of members of the Aristocracy, some of whose members were without family arms that the ordinance or Edict of 1760 by the King and council of France (which was the last incor-

porated in the constitution of Canada under the French Régime) declares that those "officers of the military and civil list of this honorable ancestry not having Court-Armor, shall be admitted on application to the privilege of noblesse of the same, provided the arms designated and registered are not those of other families of the same name with whom these have no kindred or connection."

This Ordonnance at once endowed those Military and Civil Officers who came over before 1760 and who were of honorable race and character with the rank and quality of nobles, as reported in General Murray's letter already quoted; they formed the first census of the country. They were entitled to receive Seigneurial preferment provided they had the means of fulfilling the requirements and were incorporated with the seigneurial Noblesse for nomination to the King's council in Canada.

The Clergy was the next incorporation in the province and had also a representation in the Council and in the administration of the parishes so far as ecclesiastical matters were concerned.

The Bourgeoisie was the third estate of the country, consisting of merchants and proprietors, and it as a corporation had its representation in the Province.

The peasantry was provided for in the baronies and towns where its members were laborers and domestiques.

The rights and privileges of these various corporations of the Province are secured by the capitulation of 1760, Article 45, declares: *"The registers of the Superior council, etc.—and those of the Seigneurial Jurisdiction of the colony—shall be maintained in the Colony in the departments to which these registers belong."*

The continuance of the registers of the noblesse—or, as they are known to-day *The College of Arms of Canada, is thus made an article of the constitution of Canada, guaranteed by the Kings of France and Great Britain. With the continuance of these registers is the continuance of their contained rights and privileges, as those of the first constitutional order of the Province immediately succeeding to the King himself.*

General Murray's report of the English then in the Colony

quoted in Garneau's *Historie du Canada* (1763) states that they were "Camp-followers, Valets, Barbers, Domestiques, and Peddlers, despicable from their birth and condition and not over nice in their honesty." These demanded a civil government according to the laws of England but in violation of the terms of the treaty under which the Crown of Britain had received Canada. This law of England dispossessed the French of their Language and law, the Clergy of their ecclesiastical authority, the noblesse of their rights, registery and jurisdiction. For this reason General Murray (who was Seigneur de Lauzon in Canada since the cession) who held this English rabble in great contempt refused to institute civil government and continued military rule. This rule enabled him to sustain the noblesse in its place, and the clergy and bourgeoisie as they were, while he and his military staff of gentlemen administered the rulership to the satisfaction of the French, but to the rage and hatred of the English rabble in the country who wished to rule to the exclusion of all whom the treaty protected.

The Noblesse still continued to hold Seigneurial Court at Montreal *as a right independent of the government and inherent in itself*. In 1766 this Court assembled under recognition of the British Government at Montreal and was presided over by the Seigneur Hertel de Rouville.

Gov. Murray, through the multitudinous complaints of the English rabble in the country, was recalled to the great regret of the ancient inhabitants who now saw themselves exposed to a civil administration, composed of this same rabble, whose chief officer had been an inmate of Dartworth Prison in England for fraudulent transactions. The government felt the menace of the Seigneurial Court held at Montreal and among the constitutional papers is found the following addressed to the British Ministry: "A Lieutenant Governor is absolutely needed at Montreal since that town is situated in the heart of the most populous part of the Province—it is there who reside the most orpulent of the Clergy, and the greater part of the Noblesse so that it is there that intrigues and plots against us are most likely to be engendered."

The germs of an alliance were here planted by the Seigneurs

of Canada and the Scottish Cavaliers of the British Colonies that afterwards ripened into a complete understanding, with a revival of the Order of the Mountain Eagle, which was founded under Royal French recognition by Prince Charles Stuart for those families that rallied to the cause of legitimacy within the empire. All those called Jacobite titles have been enrolled under this order in the registers of the Noblesse or College of Arms of Canada and the Order within the Seigneurial Confederation secretly invited Prince Charles Edward Stuart to raise his standard in America against the usurpation of the English Parliament and, to strike with the aid of the Kings of France and Spain for the establishment of a monarchy in the Western World.

The effect of this secret confederation soon became apparent. Everyone of the 13 British Colonies of North America, beginning with Nova Scotia and ending with Carolina had received a charter from the Stuart Kings. These charters were now threatened by the parliamentary usurpation in Britain that insulted the colonial gentry in many places and refused to recognize their ancestral distinctions.

Because of this secret understanding between the Scottish Cavaliers and their partisans and the French Noblesse in Canada the British ministry (Constitutional Documents) commanded the governor that, when the oath of allegiance be administered in Canada "for the greater security of the government . . . and to end the hopes of the Pretender (Prince Charles Edwards Stuart) and of his partisans avowed or secret . . . this oath must be taken before persons commissioned by you . . . If any refuses to take this oath you will oblige him immediately to quit our said government." The Cavaliers of this Order of the Mountain Eagle wore the white Cockade and a badge of the Mountain Eagle. Their banner was a blue flag with 6 silver bars for the 6 provinces of Canada (Norenbege, Hochelaga, Standaconna, Carpunt, Baccaleos, and Acadia). With a feudal Coronet as a golden bend dexter. In 1767 the chevalier D'Ailleboust presided at the Seigneurial Court at Montreal, and the same year Gen. Carleton (the governor) sent the following letter (27 Nov., 1767) to Lord Shelburne, British Min-

ister, "As the Seigneurs exert a profound influence over the people. I transmit to you a statement of the condtion of the noblesse in Canada, indicating as nearly as possible the age, rank and actual residence of the nobles. You will here find the names of those who have returned to France and who from youth have served in the colonial troops, are familiar with the country and with the inhabitants and have acquired an influence that is equal to that of the nobles in the country and occupying the same rank. It follows that there must be a hundred of these officers actually in France; ready to depart in event of war for a country which know perfectly and whose people they are able, with the aid of certain troops, to arouse in arms against us. It appears that there remain in the colony not over 70 of those officers who have served in the colonial troops. The King has not a single one of these in his service and not one of them could be induced under any consideration to defend the government and authority of His Majesty. They are gentlemen who in becoming subjects of His Majesty have at least lost their employ, and considering that are not bound by any charge of confidence, or that brings any profit; we but abuse our good sense in supposing that they will devote themselves to the defense of a nation that has cheated them out of their honors, 'their privileges,' their revenues and their laws (ibid, p. 171½)."

It has been seen that the parliamentary usurpation, working with the dregs of the people, was displacing the Orders of the Province in Canada for its own peculiar partisans there; regardless of the constitution and the law. Dec. 27, 1767, Carleton wrote again to the same minister, for he saw that the Noblesse, through its Seigneurial Court, was privately arming in defense of the Constitution against this outlawry. He reminded the Minister that "Canada is held only on certain conditions," that "The system of laws maintained in the colony a just subordination of the various social classes from the most elevated rank to the humblest. This spirit of subordination has maintained a perfect harmony among them which they have enjoyed until our (English) arrival, and has preserved to the Sovereign the loyalty of this distant Province."

If proof were needed none better could be held of this Eng-

lish attempt to deprive the Noblesse of their representation, to ostracize them from positions in the state and of a general tendency to undermine the entire constitution of the country. The Constitutional Documents of Canada are full of proof of parliamentary trickery and tyranny in the country with never an instance of the Sovereign awaking to the fact that, at least in Canada, he had as remedy for such disorder the inheritance by Treaty of the Prerogative of King Louis XIV.

The arming of the Seigneurs continued. They held another Seigneuriel Court at Montreal under presidency of the Baron de Longueuil. Their diplomatic agent was the Seigneur Chartier De Lotnière. They agreed that a further continuance of this treatment absolved them from their allegiance to the British Government. The Comte de Grasse, admiral of France, at their wish, and the Mountain Eagles' solicitation secretly visited the country, and on his return to France, reported that the landing of 10,000 French troops with 20,000 stand of arms for the inhabitants would be sufficient force to wrest the country from England's broken faith.

But on further debate in the Seigneurial Court, they determined first to send their ultimatum to England. Lotbinière was charged to present it with demand for full and entire reaffirmation of their rights. It states (Const. Doc., p. 370) "The property, rights and privileges are accorded Canadians in so far as is in connonace with their allegiance to the Crown and parliament of Great Britain. Is it to be understood by this condition, expressed in terms so general, that they may be deprived of a part of these rights and privileges? That is not a reasonable supposition, since the whole is assured without any exception from the moment when they became British subjects." This declaration was supported before the Houses of parliament by Solicitor and Attorney General Norton in the words: "I conceive that the definite Treaty which has been signed by the King and approved by both Houses of Parliament can not have such construction put on it that would dishonor the Crown and the National Faith."

Under this pressure, supported by the Royalists and threatened with a war in the American Colonies, and with France, par-

liament was brought to its knees in a confession of wrong and passed the Quebec Act of 1774 which terminates in these words: "Considering that the dispositions announced in said Proclamation (for English law in Canada) regarding the Civil government in the Province and that the power and authority conferred on the Governor and other officers, by experience has been found incompatible with the condition of said Province . . . whose inhabitants . . . enjoying an established Constitution and system of laws by which their persons and their property have been governed for a long series of years since the first establishment of said Province. . . . For this reason it is decreed that anything found contrary to the said customs established by the Kings of France and the Treaty of 1763 and the reaffirmation of this Act are hereby revoked, annulled and made void after the 1st day of May, 1775."

There was a clause added that "No change can be made in the condition of said Province without the consent of the inhabitants (representing the King of France in the Treaty of Cession) and the governor (representing the King of England)." And the inhabitants representing the Crown of France in the country according to Gen. Murray's letter, already quoted are I the Noblesse, II the Clergy and III the Bourgeoisie.

Any change made without the consent of each one of these Orders of the state in their separate, corporate capacity, is ipso facto null and void.

Being thus as they imagined fully restored to their constitutional rights and privileges, the Noblesse of Canada informed the Crown of France that they were obliged to remain loyal to their allegiance to the British King, thus awakened to "uphold the honor of his Crown and the National Faith." But the French peasantry in the country were disaffected as well as the English rabble. Gov. Carleton wrote three letters on this to the British ministry in each of which he showed the great aid given by the Noblesse and the Clergy to sustain the Crown authority and to the disaffection of the peasantry. In this condition and in spite of the disaffection of the English rabble under Lymburner and the French peasantry's sympathy with the threatened American invasion, (1775) the Noblesse girded on

their swords, and led by the Baron de Longueuil and Col. Picoté de Bellestre arrested Montgomery's advance at Ft. St. John and kept his army struggling all summer in the marshes of the Richlieu so enabling Gen. Carleton to fortify Quebec City for the later encounter of the foe. It was the efforts of the Noblesse alone that saved Canada to the Crown in this war of 1775-83, when the other American colonies, with the aid of France, Spain and Holland threw the parliamentary usurpation into the Sea.

Gen. Haldimand, British commander in Canada, wrote the British minister, Lord George Germain, (ibid, p. 462, Oct. 25, 1780), "The Act of Quebec has prevented and can in some measure prevent the emissaries of France and of the rebellious colonies in succeeding in their efforts with the Noblesse and Clergy to induce them to cease to bear allegiance to the British Crown."

Lord Dartmouth, British minister, declared that: "I lean for protection to British interests in America on the fact that the form of the French government has been reestablished and that the Noblesse and Clergy have regained their ancient supremacy."

Lieut-Gov. Hope wrote Sydney of the ministry in 1785: "The Noblesse, the landed-proprietors and the Clergy, I believe, appreciate the advantages accruing under the Act (1774) and consequently have an ardent desire for its maintenance." (Ibid, p. 515).

After this war (1775-83) was finished, Gen. Carleton, now Lord Dorchester, Gov.-Gen. of Canada, in the name of His Majesty, King George III, as a special recompense passed the Loyalist Act of Quebec of 1789, which decrees that: "A Mark of Honor shall be affixed to those families that rallied to the Royal Standard and stood for Unity of Empire in North America before the Treaty of Separation of 1783."

Concessions of land were granted them and they were commanded to be given precedence in military and other appointments. The various land-boards were ordered to keep their register. But after the governorship of Baron Dorchester, no effort was made to keep the register, which later was incorpo-

rated with the register of the Noblesse in the College of Arms of Canada under the Seigneurial Jurisdiction.

The Loyalist Act brought into the Noblesse the British military aristocracy in the country of before that date, which also extends to those descendants in the American colonies outside of Canada whose first American ancestor in the family name was a military or civil officer during the Royalist epoch (before 1783) in accord with the Edict of 1760. Later were incorporated in the family name, those whose first ancestor to America after 1783 was of professionl and honorable rank provided he descended in male line from a family of Europe whose race-distinction comes under the requirement of said Edict of 1760.

The radical, mongrel democracy of England and Canada, encouraged by the lack of ethics in the Crown, has kept up a crusade, first against the landed tenure of the Noblesse. This tenure was assailed by the unconstitutional Act of 1852. Secondly, against the Clergy until their ecclesiastical authority was taken away in Manitoba. Thirdly, against the very speech of the Province until the French language was refused a place in the curriculum of Ontario. In the event of Canada's independence, the Province of Quebec would have no guarantee within her own borders for the maintenance of those rights and institutions which are guaranteed by the British Crown.

The people who were opposed to the constitution, the Noblesse and the College of Arms are described in the letter of Lieut.-Gov. Hope in 1785 (ibid, p. 515), "Those among them who have signed the addresses (against the constitution, etc., as aforesaid) are above all townspeople and shop-keepers of Montreal and Quebec, whose means of existence depend on commercial agencies, and they are in no way, with but few exceptions, people of respectable standing."

One of these named Findley, issue of the civil government described by Murray, but a smarter rascal than the others, wrote in 1789: "The Seigneurs will, I think, ever oppose projects which tend to modify the existing regime. . . . A Canadian noble cannot withdraw his predeliction for that form of government which we found established at the time of the conquest (?) A Canadian noble speaks like this:

'The law, the ancient usages and the Droit Coutumier of the Province would soon be abolished if the English succeeded in obtaining a popular assembly as they have demanded. We the Noblesse, have an incontestible right to a division proportionate to our number in the honorary and lucrative posts of the administration: that we have uniformly claimed these rights our addresses of 1784 and 1788 prove.' '' So these remarks this Findley goes on to write: ''The Chamber of representatives will be composed of Canadian freeholders and these will not modify the law without being convinced that it is necessary to do so.'' But the fact is, the law cannot be modified without consent of the Noblesse, as guaranteed by the King and both Houses of parliament in the Act of 1774.

It is plain to see by this that the members of the Seigneurial Court are absolved from obedience to laws to which they have never consented and in the making of which they are not represented, and that their own Court is the only legitimate branch of the government in Canada.

In 1789 (ibid, p. 566) Lord Dorchester wrote Lord Dartmouth of the ministry, ''The Canadians are alarmed and indignant that such people should take on themselves to formulate the demand that innumerable laws and ordinances be introduced, and that the ancient customs and Droit Coutumier be abrogated. All the Canadian nobles of city and country have addressed a memorial expressing their apprehension on this subject.'' To Lord Grenville in 1789 he wrote (ibid, p. 635), ''It is needful to bear fully in mind the rights and customs of the French who form so considerable a part of the people, and to watch with the same care to preserve to them the enjoyment of the civil and religious rights that have been guaranteed them by the Articles of the Capitulation of the Province, and which they have been since reguaranteed by the liberality and enlightened spirit of the British government.''

In spite of this, however, there was passed in 1791 an Act which took away from the Province of Quebec all the land west of the Ottawa River and erected it into the Province of Upper Canada, purposely to weaken Quebec.

It will be remembered that Lord Dorchester wrote of the

100 members of the Noblesse who went to France and who held themselves ready to return when war was declared. Many of these and their sons were attached to the Austrian Army during the first war of the Allies against the Reign of Terror and Democracy in 1792 in France. The King of France had been murdered with 300,000 men, women and children of the Aristocracy. These sons of the Canadian Noblesse with others in the American colonies in 1798 had a plan of occupying Louisiana, with the consent of Spain and there founding an Aristocracy by the extension of the Droit Coutumier of the ancient régime, over estates, seigneuries and baronies to be conceded to families that had lost in France under the republic and to others who might bring their valor and treasure to the enterprise. Their Order, that of the Empire (later known as the Aryan Order of St. George of the Empire) was open to those of the American states disgusted with the vulgarity and tyranny of the democracy and who were eligible to enter under the Edict of 1760. The badge of this Order was a yellow rosette, the insignia was the black two-headed eagle Imperially crowned in gold.

In 1798 its membership was over 4,000. On the advent of Napoleon, the sympathies of the Order caused the transfer of the Order's alliance to him on account of the secret hostility of England to the project of overthrowing the democracy in America and of restoring those institutions of honor and chivalry first emplanted in America by the Emperor Charles V with the Duchy of Veragua in 1540, for the maintenance of Aryan race-purity and distinction in continuing these genealogical developments which had been transmitted from old Europe. Col. Faucher de St. Maurice, in his article on "Napoleon et le Canada," in Les Recherches Historiques de Quebec for 1897, wrote that, "Parvenus English had become tyrants, but were so mercenary that any ignoble interest might purchase them." "The leaders of the Order in 1806 were the Comte de Douglas and the Vicomte de Fronsac. In 1810 the Chevalier Le Blond de St. Hilaire was chief and reported to Napoleon's ambassador at Washington that: "An expedition against Canada would be equivalent to a taking possession. All hearts and all arms, even of the Indians would be devoted to the Emperor Napoleon. The Eng-

lish are so well convinced of this disposition that if the French flag appeared at the mouth of the St. Lawrence, their troops would be obliged to retire to Quebec and Halifax, and we would be masters of Lower Canada without burning a cartridge." The Seigneurial Court may be seen by this to be capable of organizing to defend the constitution, which is the neglected duty of the Crown.

The Order of the Empire, with its badge of the yellow rose, extended down the Mississippi to New Orleans and even among the Castilians, or pure Aryan Spanish of Mexico. Among those mentioned in a little book of the Order published in Savannah, Georgia, are the historic names of Bulloch, Glenn, de Vaux, Maxwell, Houston, etc. Those of the Burr conspiracy in the United States became allied with it. In Parton's Life of Burr, it is stated that the Barony of the Wachita, in Louisiana was fortified as headquarters in that district, where a colony of the "élite was to assemble, armed to defend themselves."

Gen. Turreau on his return to France reported to Napoleon: "The landing of French troops would produce an electric effect over the Canadians. . . . I have seen and I have heard. . . . Such an event would give new life to the Spanish colonies even. I wish to say that the two Mexicos, where the English have acquired some commercial influence would respond against them. . . . The only obstacle to fear is the secret opposition of the United States government." That government was controlled by those who had falsified the purpose of the war for American Independence in destroying the provincial charters, whose preservation was the avowed purpose of that war, simply because the charters were Royal and permitted the representation of the Aristocracy. The demagogues of this mongrel democracy had grown rich by dishonesty and by the ostracism and plunder of the said Aristocracy, whose ancestors were the patricians and founders of the colonies.

Napoleon, unable to find an heir of the Stuarts for the Empire in America, made a treaty with Charles IV, King of Spain, descendant of the Emperor Charles V (who had been America's first sovereign). In abdicating the Throne of Spain in favor of Joseph Bonaparte, Carlos IV was recognized as Emperor of

America. Napoleon was to aid this project of restoring the Empire in America, but the Russian campaign broke his power. In turn, the United States attempted to seize Canada in the war of 1812, but was ignominously repulsed. The Order of the Empire ceased to meet after the arrest of Burr in the United States and the seizure of Taschereau, Bedard, Lefrancois and Blanchet in Canada.

The greater membership of the Order of the Empire was in the South. After the failure of the Louisiana plan, the hostility which existed between the Aristocracy of the South and the mongrel democracy of the North, culminated in the Act of secession of 1861, when the Southern States repudiated the usurped authority of the Northern democracy over the general government and its tyranny, and proclaimed the sovereignty of their states as they were by the Treaty of 1783, that is with the Gentry, Yeomanry and peasantry in their proper legal subordination. They formed the Southern Confederacy and adopted the flag of St. Andrew of Scotland on account of the feudal sovereignty of their state charters which they derived from the Stuart Kings of the colonial epoch, only the White cross of St. Andrew contained a red one charged with the 13 stars of the Southern Confederacy. After the Civil War of 1861-5, the Order, as the Aryan Order of the Empire, was continued and contained, with its other associated orders, the principal officers of the Southern Confederacy, whose families were of the Aryan Noblesse of their states.

The Noblesse continue to hold their Seigneurial Court at Longueuil, in the Province of Quebec as they formerly did in other localities.

After the closing by the government in 1852 of the registers of Seigneurial tenure, the genealogical and heraldic registers were continued as the College of Arms of Canada by several of the principal members with authority from the Ordonnance of 1615. These were Charles Colmore Grant, Baron de Longueuil; Capt. Frederic Forsyth, Vicomte de Fronsac; Judge Wurtèle, Seigneur de St. David; Archibald Campbell Wurtèle; and Dr. Leprohon, representing the Seigneur de La Charité. These were strengthened later by Sir H. G. Joly de Lot-

biniére and Sir William George Johnson. These were the saviors of the Seigneurial Court and College of Arms, containing the registers of the Noblesse and that of the Loyalist Act of 1789, which are continued today by their successors.

By the Seigneurial Court of 1879 the law was made that "None but those of the White Aryan Race shall enter no matter what their claims may be." By the Court of 1880 the Order of St. George of the Empire was restored with the prefix "Aryan." The Chancellor of the Seigneurial Order was the Baron de Longueuil. The Chancellor of the Aryan Order was Capt. Frederic Forsyth (Vicomte de Fronsac), who was succeeded by the following: Gen. Alex. P. Stewaet, Gen. John B. Gordon, Gen. Zebulon B. Vance, Gen. Wade Hampton, Dr. Harvey Leonadas Byrd, Dr. Sir Edward Warren, Col. Charles Colcock Jones, Col. Stanley Sims, Dr. F. Marion Sims, Dr. Joseph Gaston Baillie Bulloch.

In 1910 the College of Arms issued the following general commission: "The College of Arms of Canada, being the authorized Registry of the Aryan and Seigneurial Noblesse in Canada, the Court for the adjudication of its members' rights, and the Council in defense of their representation in the State, is established by Ordonnance of the States-General given at Angers in 1487, which became the law in Canada when Canada became a Province of France by the Edict of 1663, in whose Registry have since been enrolled other Titular, Seigneurial, Armorial, Consular and Alumnal Noblesse by the privilege of the Edict of 1664, limited by the Edict of 1760."

"This Registry is further established under Royal Seal of King George III of Great Britain in the Treaty of Cession of 1763 and reaffirmed by the British Crown and both Houses of Parliament in the Canada Act of 1774."

"By this Authority, the Officers of the College of Arms of Canada issue the following general Charter for the better organization of those Aryan Families entitled by the Law of this Registry to enrollment in these Royally established Orders:"

"I. The Seigneurial Order of Canada—for the Titular and Seigneurial Noblesse established thereon.

"II. The Order of Baronets of Nova Scotia—for their succes-

sors registered in Canada, without which registry, according to the original charter of 1625 the bearing of the title is illegal."

"III. The Order of the Mountain Eagle (founded 1745 by Prince Charles)—for Scottish families eligible by the Edict of 1760, who rallied to the cause of legitimacy in Europe and America."

"IV. The Order of the Bannerets of Quebec (Loyalist Act, 1789) for officers' families who rallied to the Royal Standard in America before the Treaty of Separation of 1783."

"V. The Order of the Golden Horseshoe of Virginia (founded by the Royal Governor, Sir Alex. Spottswood in 1715) for Virginia families of the Armorial, Consular and Alumnal Noblesse who assisted in the military and magistracy to the establishment of Virginia."

"VI. The Aryan Order of St. George of the Empire in America, instituted in 1540 by the Emperor Charles V in the creation of the Duchy of Veragua. For the meritorious of the Armorial, Consular and Alumnal Noblesse."

"VII. The Imperial Military Order of the Yellow Rose, organized from the former Order of the Empire of Charles V in 1798 to establish an Empire in Canada and Louisiana. The Commander nominated by Napoleon I in 1809 was the Chevalier LeBlond de St. Hilaire. The modern order by this Charter, presided by Dr. Bulloch, is for those of the Armorial, Consular and Alumnal Noblesse who descend from Royalty."

"VIII. Association of the Manorial Grantees of America for families that possessed manorial grants in New York, Maryland and Carolina."

Important Notice

Those who prove their right and register in the College are incorporated in the Noblesse: they are co-proprietors of the library, documents and collection of the College of Arms of Canada and beneficiaries of its rights: they have a voice in its administration through representation in the Seigneurial Court, governed by the Ordinances and Edicts on which it is founded: they inherit and transmit all its rights, duties and obligations of-

fensive and defensive. The Baroness Dorchester has given the dies for a decoration for the Seigneurial, Baronet and Banneret Nobless. The Seigneurial and Titular Noblesse receive the coronet of their rank. At the base of all the shields is affixed the octofoil of the corporation of the Noblesse, blue, red or green as to whether it is the armorial, consular or alumnal noblesse registered.

Armorial Noblesse.

First ancestor to America before 1783, who used armorial seal, proven by documents, book-plate, mortuary notice, etc., gives rank of Armorial Noblesse to descendants registering in the male line, family name with azure octofoil of the Corporation of the Noblesse at the base of the family shield.

Consular Noblesse

First ancestor to America before 1783 who was a landed proprietor and military or civil officer gives rank of Consular Noblesse to descendants registering in the male line, family name, with red octofoil of the Corporation of the Noblesse at the base of the family shield.

Alumnal Noblesse.

First ancestor to America after 1783 who was of professional and gentry rank in Europe and who could prove descent from family in the male line, family name described in the definition of the Edict of 1760. To his descendants in the family name registering, is given at the base of the family shield the green octofoil of the Corporation of the Noblesse.

Forms of Address.

Titular Noblesse—Messire, Seigneurial Noblesse—Seigneur de —if the estate is still held, otherwise Sieur de Baronet of N. S.—Sir before the name, B. N. S. after the name, Banneret of Quebec—Sir before the name, B. Q. after the name, Armorial No-

blesse—Honorable before the name, A. N. after it, Consular Noblesse—Honorable before the name, C. N. after it. Alumnal Noblesse—Honorable before the name, Al. N. after it. Those registered receive the octofoil, diploma and passport of the Heraldic Court and are incorporated with the Noblesse, with representation in the Seigneurial Court. The Court meets the 24th of May and the 10th of Oct. at the College of Arms.

Court Dress.

Dark blue, red cord, gilt buttons of the imperial two-headed eagle, cavalry sabre, blue, red or green sash as per octofoil, with decorations only of the Orders in the Commission of 1910.

Authority of the College

The authority of the continuance as a Sovereign body of the College of Arms is derived from the following sources:

I. The Noblesse in the States-General of 1614, finding that the King would not create the Syndic demanded by them, decided to manage their own registers as a corporation of the State and declared that they would name "three or four nobles in each district, or province, to make registry of the Noblesse of the place, of their blasonry, arms and antiquity of their families, and that none should be enrolled but those who were noble by four descents."

Satisfaction was given by the King to the Corporation of the Noblesse the following year when he commissioned one of them, Francis de Cheveiers de St. Maurice as supreme judge of arms. He, after exercising the office until 1642, appointed his own successor, Pierre d'Hozier, and this office continued hereditarily in the family of d'Hozier down to the end of the monarchy (1792).

II. The right of nomination was carried to Canada by the Noblesse as a right inherent in their corporation. The King appointed the Intendant to keep the registers in the Castle of St. Louis at Quebec, subject to the visitation of the King-of-Arms aforesaid.

III. Article 45 of the Capitulation approved by the King of

England, agrees that the registers shall be continued in the departments to which they belong. In default of the King of England to appoint one of the Noblesse to keep these registers, the provision of the Ordonnance of the States-General of 1614 comes into effect and the College of Arms has thus been maintained with full sovereign authority.

IV. The sovereign authority of the Corporation of the Noblesse was duly recognized by the British Crown and parliament in treating with the Envoy of the Seigneurial Court (Chartier de Lotbinière in the proceedings of the Canada Act of 1774.

Important Notice

The College of Arms of Canada being governed by those Ordonnances and Edicts of the Ancient Régime, framed by the Corporation of the Noblesse, confirmed in continuance under the Seigneurial Jurisdiction declare that these regard nobility of race to be necessary requirement for registry of rank and arms: that rank and arms without this requirement does not constitute noblesse, and it debars those who have "acquired" titles and arms from heralds colleges in Britain and elsewhere from registering in this college, since this registry is for those only who can fulfill the requirement of noblesse as prescribed by these Ordonnances.

For example, in Great Britain, by the Statute of Victoria, the government heralds colleges are empowered to concede arms "to worthy and respectable persons" provided that they PAY for the same. Such arms are not badges of nobility since nobility of race is not required. None of these persons could register in the College of Arms of Canada, because they are not elegible to the Noblesse. Again, the heralds colleges of republicanized Britain use this money, gained by the sale and tax on arms and rank in support of a government in which the aristocracy is not represented and under which it is being mongrelized and destroyed by this and similar processes of fictitious creation.

The following Ordonnances of the States-General support the point at issue:

Angers, 17 June, 1487:—"As several princes, dukes, counts,

barons and others of the Noblesse to transmit their memory to posterity and to make known the titles which they have merited by their magnanimity and achievement, have taken arms and ensigns which respond to what they deem commendable, which they have transmitted to descendants to the end that by this illustration of their admirable careers their heirs and successors may be more attentive to follow the path of Honor, that usage, known to all the World, has been particularly that of the Frankish nation, that the names and arms of the French may be held in eternal honor, and, as it is the intention also of the sovereign to preserve this custom, it is hereby ordered that a catalogue shall be made in which shall be inscribed the arms of princes, dukes, counts, barons, seigneurs, castellens and other nobles in each of the provinces and other jurisdictions of the Kingdom . . . and other places belonging: and, by lack of knowledge of blasonry several arms are not properly arranged, His Majesty gives authority to the King-of-Arms to visit and inspect them in their order in the said catalogue to the end that those to whom they belong may enjoy them without constraint or debate."

Amboise, 26 March, 1555:—"To avoid supposition of names and arms, all persons are forbidden to alter names and arms without first obtaining letters of dispense and permission under penalty of fine of 1,000 livres, of being prosecuted for fraud and of being degraded from the Noblesse."

Orleans, 1579. "The possession of a fief does not in itself create nobility nor can a non-noble in possession of the same oblige a gentleman tenant to do him homage."

Ordonnance of 1629 "Enjoins gentlemen to sign their family names with those of their estates" (since the family alone is noble) and "a gentlemen in selling a noble fief cannot transfer the nobility with it."

2nd. Vol. Revue de la Noblesse "One forgets that a potentate, a king an emperor may grant titles of prince and duke but it is not in their power to create the smallest gentleman; that there is no power on Earth that can effect that a man shall not be the son of his father and the product of his race. If the family be noble, titles cannot add to its nobility but can only illustrate it, and if it be not noble, titles and arms can not ennoble it."

In the United States.

The right of those patrician families entitled under the Ordonnances above quoted, to register in the College of Arms of Canada and to be incorporated in the Noblesse, and to enter the various Orders reorganized under the Commission of 1910, has already been referred to. These families have been aroused to exercise this right by the fact that unless they do they are confounded under the general law of the United States with the common equality based on the peasant suffrage, colored and white, of the lowest man who votes. They recognize the fact that the various "Orders" and "Societies" for "hereditary distinction" in the U. S. have no existence in point of law, and are therefore absurdities, since the international status of an American citizen must conform to the law of the U. S. and that status is the peasant suffrage of the lowest man who votes.

The Constitution of the U. S. declare that no state, or states can grant titles of nobility. What then is the position of that absurd body chartered in Maryland as "The Lords of American Manors?" The U. S. Statute regarding naturalization decrees, that a man must abandon titles and family honors so as to be put on the common equality of citizenship. What then are the "coats-of-arms" of these "Orders and Societies"? They can be regarded only in the light of trade-marks and frescoes, since no Congress could incorporate any "Bureau" to register the emblems of nobility and rank.

Another law which has naturally no effect in U. S. "Societies"—to be expected from their lack of legal existence—is, that the distinction of race of a patrician family cannot be carried by marriage into a plebian family and cause the descendants of that plebian family to be patrician also, but that a wife "follows the condition of her husband's family" his offspring inherit the rank of their father's family and no other. This is according to one of the Ordonnances to govern registration of Noblesse.

Four Descent—Test of Race—Purity.

To prove four descents is to show descent in the marriages of four consecutive generations from the eight families of those

marriages, each of which families are either registered or eligible to register under the Ordonnances in the College of Arms of Canada. It entitles the one making this proof to crown his arms with the coronet of the Noblesse de race and to receive the Decoration of the Empire. These marks of inherited honor and purity of race are transmissible in the family name of the one making this proof so long as those lines marry, among those registered or registering. If anyone possesses these elegible 8 ancestors whose families are not yet registerd, he has but to obtain the registration of a representative of each one of these families to make his own proof complete.

A dispensation is made for those of the Alumnal Noblesse, some of whose 8 ancestors would be among families of Europe—in such cases, genealogical proof alone is necessary.

There is many a British Peer who has deprived his offspring of the ability of this proof by defiling his bed with a marriage with some rich vulgarian, and many a Peer besides whose title is his only "noble" possession.

Some Titles of the Ancient Regime.

Duc d'Arkansas, Marquis de Beauharnois, Marquis de Vaudreuil, Marquis de Vezza, Marquis de Razilli, Marquis de Rocheblave, Marquis de Lotbinére Comte d'Orsainville, Comte de Douglas, Comte de Beaujeu, Comte de Bermond, Vicomte de Lery, Vicomte de Fronsac, Baron de Becancour, Baron du Captourmente, Baron de Portneuf, Baron de St. Etienne, Baron de La Tour, Baron Tonty de Paludy, Baron de Longueuil, Baron d' Entremont de Pubnico, Baron de Poutrincourt, Baron de Narcy, Baron de Beaumouchel, Chev. d'Iberville, Chev. de Bienville Chev. de Bonnaventure, Chev. de La Ronde, Chev. de St. Ours, Chev. Joncaire de Charbert, etc. The Baronets of Nova Scotia, etc.

Royal and Seigneurial Court of Canada

His Royal Highness, Sovereign Prince of Norembega, Acadia, Hochlaga, Stadaconna, Carpunt and Baccaleos, succeeding to the titles and dominion of his predecessors from the time of the Emperor Charles V with the Prerogative and Obligations of

the King Louis XIV, who incorporated Canada as an autonomous province by the Edict of 1663.

PRESIDENT of the SEIGNEURIAL COURT (one with the highest rank present at the opening of each court).

CHANCELLOR. . . . The Baron de Longueuil.

MARECHAL-DE-BLASON. . . . The Vicomte de Fronsac.

REGISTRAR-GENERAL. . . . Messire Thomas Scott Forsyth.

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OCTOBER, 1914

AMERICANA

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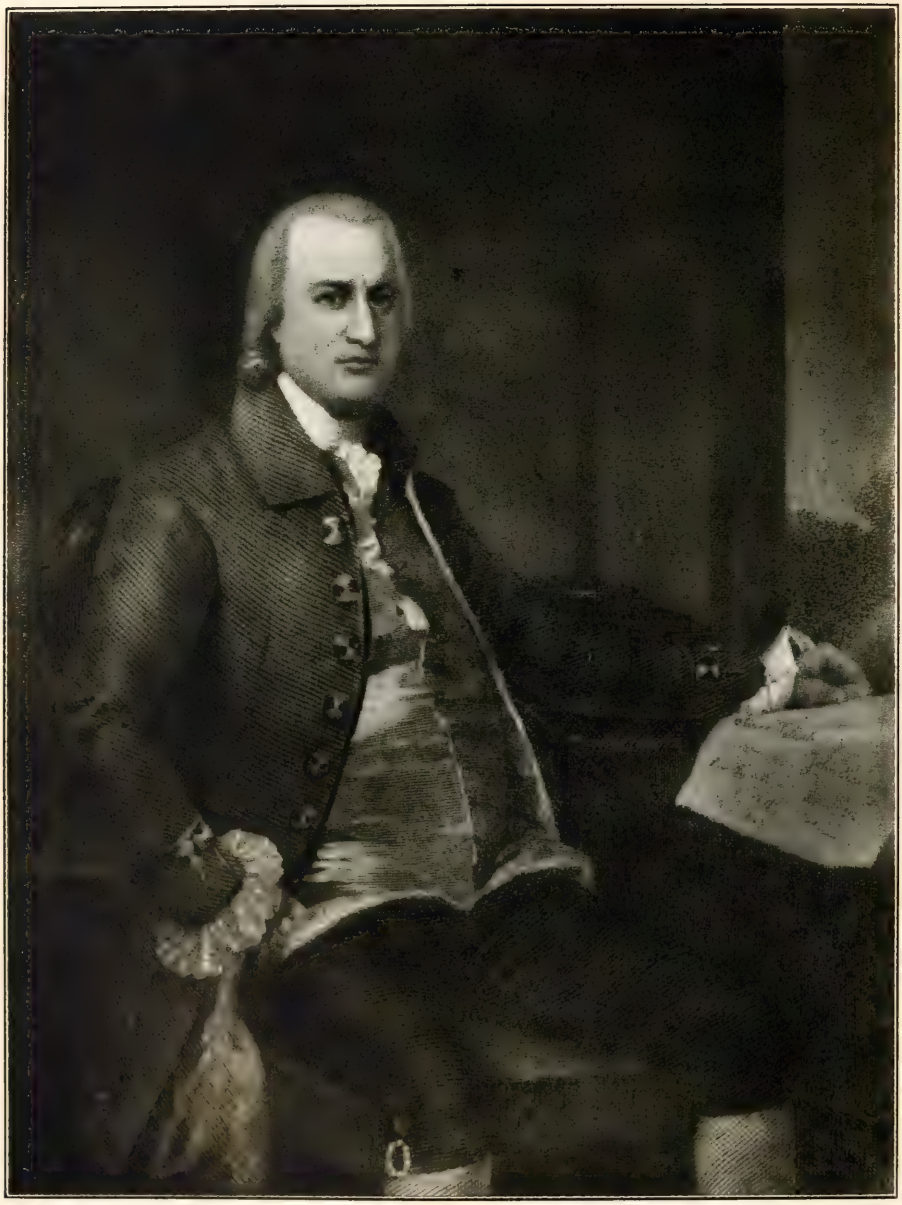
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Oliver Wolcott

1726-1797

AMERICANA

October, 1914

The Wolcott Family

Arms—Argent a chevron between three chess rooks ermined.

Crest—A bull's head erased argent, armed or; ducally gorged, lined, and ringed, of the last.

Motto—Nullius addictus jurare in verba magistri—bearing the name of "Wolcott."[1]

THESE arms are of great antiquity. Copies of the shield etched on the silver tankard and cup of Governor Roger Wolcott (1679-1767) and engraved on the tombstone or tablet of Captain Samuel Wolcott (1679-1734) in the old Windsor church-yard, apparently are not copied from each other or from books of heraldry, but point to a traditional copy which has disappeared. Chess-rooks were introduced early in the fifteenth century through a knight of whom it is recorded in the old family pedigree:

"Playing at ye chesse with Henry ye fifth, King of Englande, he gave hym ye cheeke matte with ye rouke, whereupon ye kinge charged his coate of armes which was ye crosse with flower de lures, and gave him ye rouke for a remembrance.

"It seems these Chess-Rooks were at first called Rooks for being in defence of all ye rest; and therefore they stande in ye uttermost corners of ye Chesseboard as Frontier Castles.

"King William ye Conqueror lost great Lordships at this playe. And it might well become a Kinge, for therein are comprised all ye Stratagems of Warr or plotts of Civil State."[2]

The name of Wolcott in England has been traced back to the year 1525 by H. G. Somerby, the antiquarian. At that period

1. Arms registered in the College of Arms of Canada.
2. "Herald's Visitation."

the family was seated at Tolland. William and Thomas were the names for that year. He also found that the Somersetshire family invariably spelled the name *Wolcott,* while in Shropshire, Lincolnshire, and other places it is written *Walcott.* He found in the register of the parish church at Lydiard, St. Lawrence, adjoining that of Tolland, the following entries:

"Henry ye sonne of John Wolcott was baptized the VI of December, 1579.

"John son of Henry Walcott was bap. 1st of Oct. 1607.

"Henry Wolcott and Elizabeth Sanders were married 19 January, 1606."

Mr. Somerby made numerous notes other than the ones mentioned, and he also prepared an elaborate genealogical table which carries the family back to the eleventh century in Wales and traces its descent through a titled Walcott family in Shropshire. In doing this, he based his argument on the similarity of family arms and names. As the table is conjectural and not authenticated, we, for the present purpose, omit a copy of this genealogical table. He begins the English line of the first American ancestor, Henry Wolcott, of Windsor, with John Wolcott, the elder, of Tolland, whose will was dated November 10, 1623, and proved January 16, 1624.

From the Subsidy Rolls are found in different branches of the family at this period contemporary *Johns* and *Henrys;* therefore, the lineage of Henry Wolcott, of Windsor, cannot with certainty be traced through wills or through any other papers that have come to light. This much is established: the good standing of the family socially and morally as British freeholders, supporters of religious institutions and of the government under which they lived, and in man and horse equipped for wars of the time.

I

HENRY WOLCOTT, the founder of the family in America, was born in Tolland, near Taunton, Somersetshire, England, and baptized in the contiguous parish of Lydiard, St. Lawrence, December 6, 1578, the second son of John Wolcott, of Tolland. He was a member of Mr. John Warham's church at Exeter,

Devonshire, England, who was selected as pastor of the new church to be organized in the new world, in which office he was installed at the inauguration of the church at Plymouth, England, in 1630; transferred to Dorchester, Massachusetts Bay Colony, May 30, 1630; removed to Windsor, Connecticut, in 1635, where he erected a church and continued his labors up to April 1, 1670, when he "slept in the Lord."

Henry Wolcott sold his estates in England for about eight thousand pounds sterling, and was one of the passengers on the ship "Mary and John," Captain Squib, master, who set out to form a colony in the new world. His fellow passengers included the Reverend Mr. John Warham, Mr. John Warham, Mr. John Marrick, Mr. Edward Rossiter, Mr. Roger Ludlow, Mr. Roger Clap, and other members of Mr. Warham's church and congregation from Devonshire, Dorsetshire, and Somersetshire. While awaiting in Plymouth the sailing of the ship, they organized the independent church to be planted in the new world, which became the First Church in Windsor, the oldest in the state of Connecticut. The ship left the port of Plymouth March 20, 1630, and arrived at Nantasket, after a voyage of two months and ten days, May 30, 1630, and as it was the Lord's Day they delayed their landing until the next day, May 31, 1630.

On the first day of the meeting of the first general court assembled in Boston (not as representatives but as individual freemen), before represenatives had been chosen, Henry Wolcott's name appears in the first list of freemen made so by the oath of allegiance prescribed by the colonial government and he became a member of the first legislative body of the Massachusetts Bay Colony. The company remained in Dorchester, Massachusetts Bay Colony; spies had been sent out to view the lands in the wilderness of Connecticut, and through information gained from the Dutch settlers of New York they learned of the available tract of land on the Connecticut river, where they were hospitably received by the Indians, and the report of John Oldham and the others of the exploring expedition determined the bodily removal of the church in the care of Mr. Warham to this promising land. In 1634 they applied to the general court for permission to go in quest of new adventures in a better land.

In the summer of 1635 a number of Mr. Warham's people prepared to bring their families and make a permanent settlement at Windsor. The journey proved full of peril, entailing property loss as well as personal hardship.

In 1637 the first general assembly of Connecticut was organized, with Henry Wolcott as a member of the house of representatives, which comprised twelve members and in this way he became a pioneer in the organization of civil government in both Massachusetts and Connecticut. In 1640 his name headed the list of inhabitants of Windsor; in 1643 he was elected to the house of magistrates, the higher branch of the legislature, and he was annually re-elected during his lifetime. He was esteemed, next to the minister, as the most distinguished man in Windsor. By the decease of his elder brother, Christopher Wolcott, without issue, he became proprietor of the family estates in England, which included the manor house and mill, and in 1640 he visited England in the interests of his acquired estate. On January 11, 1640, he was granted from the plantation, for a home lot, twelve acres; also, in the great meadow, twenty-two acres, and in the Plymouth meadow eight acres; and also at Herteford sixty-eight acres, and over the great river twenty-four acres, besides other valuable tracts. He continued as an honored citizen of Windsor and a member of the upper house of the colonial legislature up to the time of his death. His will, which was dictated on the day of his death, mentions his wife, and sons Henry, Christopher, George, and Simon, his son Henry being named as overseer of his will and testament. This will was proved October 4, 1655. His widow survived him about five weeks, and died July 7, 1655, having signed her will by her mark, July 5, 1655, not being physicially able to hold a pen to enable her to write her name. The inventory of the estate, exclusive of the property in England, amounted to seven hundred and sixty-four pounds, eight shillings and tenpence, which sum in no measure represents the large expenditures which he made during his lifetime in making settlements and assisting his fellow colonists of lesser means in planting and fostering the early English colonies on the Connecticut River. His body, with that of his widow, found sepul-

ture in the church-yard in Windsor; here an arched monument of brown-stone marks the place, and this is said to be the oldest monument of this style in the country. Around it are monuments marking the graves of their children and children's children. The monument to Henry and Elizabeth Wolcott was erected only thirty-five years after the landing at Plymouth of the "Mayflower" passengers, and it is still in perfect preservation, and the church which they helped to organize in Windsor observed its "Quarter Millennial Celebration" in 1881.

Died, in Windsor, May 30, 1655.

Married, January 19, 1606, Eliazbeth, daughter of Thomas Saunders, of Lydiard, St. Lawrence, baptized in that parish December 20, 1584.

Issue:

1. John Wolcott, baptized October 1, 1607; d. in England, without issue, previous to the date of his father's will, and no mention occurs in the family records.
2. Anna Wolcott, who, with Mary and Simon, came to America between 1631 and 1641; married, October 16, 1646, Matthew Griswold, of Windsor, Connecticut.
3. *Henry Wolcott,* of whom below.
4. *George Wolcott,* of whom below.
5. Christopher Wolcott, who immigrated with his parents and two older brothers in 1630, never married. He received from his father the family homestead, which passed to his sisters and brothers when he died in Windsor, September 7, 1662.
6. Mary Wolcott, m., June 25, 1646, Job Drake, of Windsor, and she and her husband d. the same day, September 16, 1689.
7. *Simon Wolcott,* of whom below.

II

HENRY WOLCOTT, second son of Henry and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England, January 21, 1610-11. He came with his parents to New England in 1630; was admitted as a freeman of Massachusetts Bay Colony by the General Court at Boston, April 1, 1634;

removed with his parents to Windsor, in 1636, and was an importing merchant trading between the Connecticut colony and England, making a trip to England in 1654. He is one of the nineteen colonists named in the charter of Connecticut; was made a representative in the house of deputies in 1660, and a member of the house of magistrates from 1662 to the time of his death. His note-book of about four hundred pages, closely written in shorthand of his own invention, and not deciphered until 1857, contains valuable historical dates, texts, and general outlines of sermons by Warham, Hunt, Hooker, and Stone during sessions of the general and particular courts, including election sermons of Mr. Hooker on May 31, 1638, and April 11, 1639. He also gives data of his experience in raising fruit, and his apple orchard is on record as having been the finest and largest in the Connecticut valley and as having produced five hundred hogsheads of "Syder" in one year. This orchard was in bearing before 1649, and for twenty years after 1650 he supplied young trees, summer and winter apples, and cider by the hogshead, gallon, or pint to the people of Windsor and nearby settlements, and exported to other colonies.

Died, in Windsor, July 12, 1680.

Married, November 18, 1641, Sarah, daughter of Thomas Newbury, who died July 16, 1684.

Issue:

1. Henry Wolcott, b. June 6, 1643.
2. John Wolcott, b. February 28, 1645.
3. Samuel Wolcott, b. October 8, 1647; d. May 10, 1648.
4. Sarah Wolcott, b. July 5, 1649; m., June 6, 1674, Captain John Price, of Salem, Massachusetts.
5. Mary Wolcott, b. December 6, 1651; m., June 2, 1679, James Russell, of Charlestown, Massachusetts.

GEORGE WOLCOTT, third son of Henry and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England. He came with his parents and family to New England in 1630 and removed with them from Dorchester, Massachusetts Bay Colony, to Windsor, Hartford Colony, in 1636. He was

made a freeman by the general court of Connecticut, May 21, 1657.

Died, at Wethersfield, Connecticut, February 12, 1662. He made his will January 19, 1662, in which he names his wife, Elizabeth, his sons George and John and daughters Elizabeth and Mercy, and names as his estate housings and lands in Wethersfield.

Married Elizabeth Treat, and settled in Wethersfield.

Issue:

1. Elizabeth Wolcott, b. June 20, 1650; m., December 15, 1686, Gabriel Cornish.
2. George Wolcott, b. September 20, 1652; m., August 30, 1691, Elizabeth Cortis, and had ten children. His estate was valued at £840.
3. John Wolcott, b. August 5, 1656, and was living at the date of his father's will in 1662.
4. Mercy Wolcott, b. October 4, 1659, was an invalid in 1687.

SIMON WOLCOTT, youngest son of Henry Wolcott and Elizabeth (Saunders) Wolcott, was born in Tolland, Somersetshire, England, about September 11, 1624, or 1625. Being an infant when his father, mother, and brothers sailed for the new world, he remained with his two sisters, their parents not wishing to submit them to the hardships they knew they would encounter in selecting and building a home. The date of his arrival in America is not on record, but we find him before the general court of Connecticut Colony in 1654, at which time he was thirty years of age, and was admitted to all the privileges of a freeman of the colony.

He settled on land on the road to Hartford, opposite his father's homestead in Windsor, which land he had purchased from Goodman Whitehead. We then find him possessed of a grant of land in Simsbury in 1667, at which time he was prominent in town affairs. In 1668 he was a member of a committee appointed by the general court to supervise planting by the new settlers. He removed from Windsor to Simsbury in 1671, and was made captain of the train band of the new town, August 11, 1673,

and a selectman of the town in 1674. During King Philip's War all the settlers of the town were driven from their homes by the Indians, and it is said that he hid the silver belonging to the family in a brass kettle and buried the kettle and contents in a swamp near the house, and it sank too deep and was never recovered. In 1680 the general court granted him two hundred acres of land, and at that time he was one of the six pioneer settlers to be honored by the honorable title of "Mr." He removed across the river in 1680 with his family, and began to clear a farm on his grant. He had begun to build a new house and to clear the land for cultivation, but had made little progress when he died, whereupon his widow and sons took up the work and completed his plans, in which his widow was assisted by her second husband.

Died in Simsbury, Connecticut, September 11, 1687.

Married, 1st, March 19, 1657, Joanna Cook, daughter of Aaron Cook, a pioneer settler of Windsor. She was born August 5, 1638, and died April 27, 1657.

Married, 2d, October 17, 1661, Martha Pitkin, sister of William Pitkin, of East Hartford, attorney-general and treasurer of the colony, and before the charter an assistant of Massachusetts Bay Colony. From him descended the honorable Pitkin family of Hartford. She was born in England about 1640 and died at Simsbury, Connecticut, October 13, 1719, aged eighty years. She married as her second husband, in 1689, Daniel Clark, who took up the work on the new farm laid out by Simon Wolcott and completed the house and became the head of the family, bereft so early in life of a father's care. Of his mother, Governor Roger Wolcott says: "She was a gentlewoman of bright and natural parts, which were well improved by her education in the city of London. She came to New England in 1661, and the same year was married to my father. The rest of her useful life she spent in the wilderness in doing good and setting an example of piety and prudence, charity and patience."

Issue (all by second wife):

1. Elizabeth Wolcott, b. August 19, 1662; m., December 10, 1680, Daniel Cooley, of Long Meadow, Massachusetts.

2. Martha Wolcott, b. May 17, 1664; m., January 6, 1686, Thomas Allyn, of Windsor.

3. Simon Wolcott, b. June 24, 1666; m., December 5, 1689, Sarah Chester, daughter of Captain John Chester, of Wethersfield. Issue six children.

4. Joanna Wolcott, b. June 30, 1668; m., September 2, 1690, John Colton, of Long Meadow, Massachusetts.

5. *Henry Wolcott,* of whom below.

6. Christopher Wolcott, b. July 4, 1672; d. April 3, 1693.

7. Mary Wolcott, b. in 1674; d. in 1676.

8. William Wolcott, b. November 6, 1676.

9. *Roger Wolcott,* of whom below.

III

HENRY WOLCOTT, second son and fifth child of Simon and Martha (Pitkin) Wolcott, was born in South Windsor, Connecticut, May 20, 1670. He was one of the original proprietors of Tolland and Wellington, Connecticut, and was a man of affairs in his own town. He and his family are said to have been of unusually tall stature. He located himself on the main street in East (now South) Windsor, about a mile south of the present meeting house, and the house which he there built was torn down and the material used in the erection of the "Old Wolcott Homestead." This house was preserved the longest of the early Wolcott homes and was the birth-place of Henry's great-grandchildren, the children of his grandson, Samuel Wolcott. It was torn down when the ownership passed out of the Wolcott family, only during the last generation, and was probaby the site of the original family seat on the east side of the river.

Died in November, 1746.

Married, 1st, April 1, 1696, Jane, daughter of Thomas Allyn of Windsor. She was born July 22, 1670, and died April 11, 1702, after the birth of her second child.

Married, 2d, Rachel, (probably Talcott), who died January 8, 1725.

Married, 3d, April 11, 1727, Hannah, widow of John Wolcott.

Issue: (by first wife)

1. Henry Wolcott, b. February 28, 1697; m., December 27, 1716, Abigail Cooley, of Long Meadow. Issue: i. Benjamin Wolcott. ii. Jane Allyn Wolcott. iii. Abigail Wolcott. iv. Penelope Wolcott. v. Tryphena Wolcott. vi. Henry Wolcott. vii. Christopher Wolcott. viii. Simon Wolcott. ix. Peter Wolcott. x. Martha Wolcott.

2. Thomas Wolcott, b. April 1, 1702; m., August 12, 1725, Catherine Loomis. Issue: i. Thomas Wolcott. ii. Miriam Wolcott. iii. Luke Wolcott. iv. Jane Catherine Wolcott. v. Redexelana Wolcott. vi. Rachel Wolcott.

Issue: (by second wife)

3. Peter Wolcott, b. between 1703 and 1709; m., May 30, 1733, Susanna (Hamlin) Cornwall, widow. Issue: i. Giles Wolcott, m. Sibyl Alden, and left four sons.

4. Rachel Wolcott, m. Joseph Hunt.

5. Jane Wolcott, b. October 20, 1710, d. March 16, 1711.

6. *Gideon Wolcott,* of whom below.

ROGER WOLCOTT, youngest child of Simon Wolcott and Martha (Pitkin) Wolcott, was born in Windsor, Connecticut, January 4, 1679. In 1680 his parents removed to the west side of the Connecticut river opposite Windsor, and at that time there was no school or church in the neighborhood and he was instructed solely by his parents. His father died when he was eight years of age, and before the farm house and buildings were completed or his proposed farm cleared. The widowed mother and her children took up the work, and, as expressed by the youngest son when governor of Connecticut, "we never wanted." When eleven years of age he could read and write, and when fifteen years of age he left the farm to learn the trade of clothier. On January 2, 1699, he established himself in business as clothier on his own account in Windsor.

He was made selectman of the town in 1707, and deputy to the general assembly in 1710. As commissary of Connecticut stores for the colonial militia, he took part in the expedition against Canada in 1711, and on his return home he was made a

counselor to the colonial governor in 1714; judge of the Windsor county court in 1731; judge of the superior court of the colony in 1732; deputy governor and chief judge of the superior court in 1741. In 1745 he attained the rank of major-general of the colonial army by his services at the siege of Louisburg, his commission being signed by Governor Shirley of Massachusetts and Governor Law of Connecticut, he having led the Connecticut troops in the expedition against Cape Breton. At this time he was sixty-seven years old, and except the Reverend Mr. Moody, the oldest officer in the service. Speaking of this service he said, "It was a tough business. Divine Providence appeared wonderfully in our favor and should forever be remembered with thankfulness." On returning from this successful expedition, he was received with popular applause, and in 1750 he was elected governor of Connecticut. He served up to 1754, when he was retired by the will of the voters who were offended by his want of action in reference to aiding the Spanish merchant vessels, which had taken refuge in New London harbor. The governor defended his course by asserting that the owners of the cargoes had neglected and delayed to notify the governor, and when the case reached the king's council, he was absolved from all blame and public favor was in a measure restored. In the election of 1755 he was again a candidate for governor and lacked only two hundred votes of re-election. He thereupon retired from public life.

In 1704 he built a mansion house which withstood the storms of two centuries, and upon the panels, which were taken from the house when demolished and which have been preserved, are paintings representing scenes of the attack of the Indians on the pioneer settlers of Deerfield, which is historically known as the "Massacre of Deerfield." He was the author of three notable books: "Political Meditations; Being the Improvement of Some Vacant Hours" (1720); "A Tract on a Controversial Letter of New England Churches" (1761); "A Brief Account of the Agency of the Honorable John Winthrop, Esq., in the Court of King Charles II. A. D. 1662;" a poem of fifteen hundred lines, in which he gave a description of the Pequot War, the original manuscript of which is preserved among the archives

of the Connecticut Historical Society, and was first printed in the Collections of the Massachusetts Historical Society; and "Letter to the Freemen of Connecticut; (1761).

Died in East Windsor, Connecticut, May 17, 1767.

Married, December 3, 1702, Sarah Drake, daughter of John and Mary (Wolcott) Drake. She was born May 10, 1686. She was a descendant in the twenty-first generation from William the Conqueror.

Issue:

1. Roger Wolcott, b. September 14, 1704.
2. Elizabeth Wolcott, b. April 10, 1706; m., August 24, 1727, Roger Newberry, of Windsor.
3. Alexander Wolcott, b. January 20, 1708; d. an infant.
4. Samuel Wolcott, b. January 9, 1710; d. December 22, 1717.
5. Alexander Wolcott, b. January 7, 1712; killed by a cart-wheel, October 8, 1741.
6. Sarah Wolcott, b. December 10, 1713; d. same day.
7. Sarah Wolcott, b. January 31, 1715; d. January 5, 1735, "in an extasie of Joy over Death."
8. Hepzibah Wolcott, b. June 23, 1717; m. John Strong, of East Windsor, November 10, 1737.
9. Josiah Wolcott, b. February 6, 1719; d. January 29, 1802.

Twins—

10. Erastus Wolcott, b. February 8, 1721; d. May 10, 1722.
11. Epaphrus Wolcott, b. February 8, 1721; d. April 3, 1733.
12. Erastus Wolcott, b. September 21, 1722.
13. Ursula Wolcott, b. October 30, 1724; m., November 10, 1743, Matthew Griswold, afterwards governor of Connecticut.
14. *Oliver Wolcott,* of whom below.

IV

GIDEON WOLCOTT, youngest child of Henry and Rachel (Talcott) Wolcott, was born in East (now South) Windsor, Connecticut, in 1712. He commanded one of the companies raised by the colonists in 1760 to protect the settlers from the depredations of the French and Indians and was thereafter known

by his rank as "Captain Gideon." The oak tree still standing on the site of the seat of the Wolcotts at South Windsor is believed to have been planted in his early childhood by his father.

Died June 5, 1761. The inventory of his estate at his death was rendered at two thousand, five hundred and seventy-five pounds, two shillings and three pence. The following epitaphs are found in the family burial grounds:

"In Memory of Capt. Gideon Wolcott, who departed this life June 5th, A. D. 1761, in the 50th year of his age."

"In Memory of Mrs. Naomi Wolcott, late Relict of Capt. Gideon Wolcott. She was born in East Hartford, March 1st, 1721, and died Nov. 7th, 1775. Be ye followers of them who through Faith and patience inherit the promises."

Married, 1st, Abigail, daughter of Samuel Mather of Windsor. She was born May 3, 1718, and died in June, 1741.

Married, 2d, Naomi, daughter of Deacon Joseph Olmsted of East Hartford.

Issue:

1. Abigail Wolcott, m., April 9, 1764, Charles Rockwell, of South Windsor.
2. *Samuel Wolcott,* of whom below.
3. Naomi Wolcott, b. September 28, 1754; d. April 16, 1782; m., February 8, 1780, Reverend William Robinson of Southington. (Yale College A. B., 1773).
4. Gideon Wolcott, b. November 28, 1756, d. in 1806.
5. Elizier Wolcott, b. April 12, 1760; d. September 20, 1828; m. Elizabeth, daughter of Dr. Alexander Wolcott, b. January 13, 1763, and died October 12, 1817.

OLIVER WOLCOTT, seventh son and fourteenth child of Roger Wolcott and Sarah (Drake) Wolcott, was born in Windsor, November 26, 1726. He was graduated from Yale College, A. B., 1747. Upon leaving the college he enlisted in the New York colonial army, preparing for operating against the French and Indians on the northern frontier, and he raised a company and

held the commission of captain from the governor of New York in that service. He remained in the service up to the time of the peace of Aix la Chapelle. He then studied medicine and was appointed the first sheriff of Litchfield county, in 1751, serving in that office for twenty years.

He was a representative from Litchfield in the general assembly of the colony, 1764-70; an assistant to the governor, 1771-86; judge of the probate court, 1772-95; colonel of the militia in 1774, and chief judge of the court of common pleas of Litchfield county, 1774-86. He was a delegate to the continental congress in 1775 and served for two terms, 1775-1778, and was a signer of the Declaration of Independence as passed July 4, 1776. He was a brigadier-general in the American revolution, being promoted to that rank in August, 1776. At the beginning of the war the continental congress assembled in New York, of which city he was a resident, and when the large leaden statue of George III., on Bowling Green, was pulled down by the revolutionists to be melted into bullets, it was carried to his house and the bullets were moulded in the huge fireplace in the kitchen.

He was again a member of congress from Connecticut, 1780-83; lieutenant-governor of Connecticut, 1786-96, and on the death of Governor Hutchinson, in 1796, he was sworn in as governor. In 1797 he was elected governor and held the office at the time of his death. He received the honorary degree of M. A. from Yale College in 1765 and that of LL.D. in 1792.

Died in Litchfield, Connecticut, in December, 1797.

Married, January 21, 1755, Lorraine [or Laura] Collins, daughter of Captain Daniel Collins and Lois (Cornwall) Collins (born 1720, died 1787), of Guilford, Connecticut.

Issue:

1. Oliver Wolcott, b. August 31, 1757; d. September 13, 1757.
2. *Oliver Wolcott,* of whom below.
3. Laura Wolcott, b. December 15, 1761; m., October 6, 1785, William Mosley; Yale 1777.
4. Mariann Wolcott, b. February 16, 1765; m., in October, 1786, Chauncey Goodrich (Yale, 1776).
5. *Frederick Wolcott,* of whom below.

V

SAMUEL WOLCOTT, eldest son and second child of Gideon and Naomi (Olmsted) Wolcott, was born in the homestead at South Windsor, Connecticut, April 4, 1751. He continued to live on the old homestead and cultivated the old farm which had been owned and occupied by his father and grandfather. He served as commissary in the revolution. One who saw him in his declining years has left this description of him: "At the time of my earliest recollections of him he was somewhat crippled by seven attacks of the gout, which heavily afflicted the latter years of his life. When young, he must have been a person of great manly beauty. His height was near six feet, his frame robust and well covered with muscle, his whole physical structure adapted alike to strength and activity. His hair was very dark, but not quite enough to be called black, his eyes dark hazel and of uncommon brightness, his features regular, and his whole countenance indicative of a strong and active mind."

Died June 7, 1813. The inventory of his estate amounted to thirty thousand, six hundred sixty-nine dollars and nine cents.

Married, December 29, 1774, Jerusha, daughter of General Erastus and Jerusha (Wolcott) Wolcott and granddaughter of Governor Roger Wolcott. She was born November 29, 1755, and died March 19, 1844.

Issue:

1. Jerusha Wolcott, b. October 8, 1775; m., November 30, 1794, Epaphrus Bissell, of East Windsor Hill.

2. Naomi Wolcott, b. October 10, 1777; m., October 1, 1804, James Wadsworth of Geneseo, New York (Yale A. B. 1787). He was born April 20, 1768, and died June 7, 1844. Issue: i. James Samuel Wadsworth, b. October 30, 1807, d. in battle, May 6, 1864, in command of a division at the Wilderness.

3. Samuel Wolcott, b. December 12, 1781, d. February 17, 1795.

4. *Elihu Wolcott,* of whom below.

5. Sophia Wolcott, b. March 29, 1786; m., October 19, 1807, Martin Ellsworth, of Windsor (Yale A. B. 1801), son of Chief-Justice Ellsworth. Issue: i. Oliver Ellsworth, was graduated from Yale in the class of 1830.

6. Ursula Wolcott, b. November 17, 1788; m., May 10, 1815, Reverend Newton Skinner (Yale A. B., 1804). Issue: i. Samuel Wolcott Skinner, was graduated at Yale, A. B., 1842, M. D., 1846.

7. Elizabeth Wolcott, b. September 23, 1791; m., November 23, 1820, Erastus Ellsworth (1789-1878). Issue: i. Erastus Wolcott Ellsworth (Amherst A. B., 1844); he is the author of a volume of poems. ii. Mary Lyman Ellsworth, m. Dr. William Wood, author of "Birds of Connecticut."

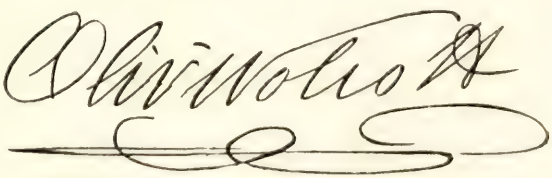
8. Horace Wolcott, b. March 25, 1794, was captain of mounted troop in his native town and removed first to Michigan and then to Illinois, where he d. in 1838.

OLIVER WOLCOTT, second son and child of Oliver Wolcott, the Signer, and Lorraine [or Laura] (Collins) Wolcott, was born in Litchfield, January 11, 1760. He was graduated at Yale College, A. B., 1778; A. M., 1781. He served in the American revolution under the command of his father, General Oliver Wolcott, during part of the war, and was a member of the committee of the pay-table of Connecticut troops, 1782-88. In 1784 he was appointed a commissioner to assist Oliver Ellsworth in adjusting and settling the claims of Connecticut against the United States.

He was a comptroller of public accounts of the United States, 1788-89; auditor of the United States treasury, 1789-91; secretary of the United States treasury as successor to Alexander Hamilton, 1795-1800; and in 1801 he was appointed judge of the second United States circuit court. At the close of his term of office, in 1802, he engaged in mercantile business in New York, continuing up to 1812, when he joined his brother, Frederick Wolcott, in building extensive factories at Wolcottville, Connecticut. He was elected governor of Connecticut in 1818, which office he held by successive elections up to 1827, when he refused further service.

He was the author of several political pamphlets, and in 1846 his papers were edited by Gibbs under the title, "Memoirs of the Administrations of Washington and John Adams." He received the honorary degree of LL.D. from Brown University





1760-1833

in 1799; from the College of New Jersey the same year, and from Yale College in 1819. His will was dated July 14, 1832, and was probated in 1833. He was buried in Litchfield cemetery.

Died in New York city, June 1, 1833.

Married, June 1, 1785, Elizabeth Stoughton, only daughter of Captain John Stoughton, of the British provincial army, and Ruth (Belden) Stoughton. She was born October 27, 1767, died September 25, 1805, a descendant of Thomas Stoughton, an original settler of Windsor.

Issue:

1. John Stoughton Wolcott, b. August 28, 1787; d. February 4, 1789.

2. Oliver Wolcott, b. May 27, 1790; d. July 17, 1791.

3. Laura Wolcott, b. April 10, 1794; buried from All Souls Church, New York city, December 13, 1870; m., December 27, 1810, Col. George Gibbs, of Newport, Rhode Island, and of Sunswick, New York.

4. Elizabeth Stoughton Wolcott, b. October 9, 1795; m., July 2, 1813, William Gracie, of New York city.

5. Oliver Stoughton Wolcott, b. January 18, 1800; d. May 23, 1832; m., November 9, 1820, Jane Lowe Conrad, daughter of John Conrad, of Chester county, Pennsylvania. Issue: i. Oliver Wolcott, b. September 14, 1823; d. May 22, 1856, the last male descendant of Oliver Wolcott, secretary of the United States Treasury, in the line of his sons.

6. John Stoughton Wolcott, M. D., b. December 4, 1802; d. November 22, 1843; never married. Named in his father's will as residing with him, "the protector of his declining years."

7. Henry Wolcott, b. September 4, 1805; d. September 25, 1805.

FREDERICK WOLCOTT, third son and fifth child of Oliver Wolcott, the Signer and Lorraine [or Laura] (Collins) Wolcott, was born in Litchfield, Connecticut, November 2, 1767. He was graduated at Yale, A. B., 1786, with the honors of his class. He was an accomplished scholar and kept up his studies of the

classics and ancient literature. In his youth he met President Washington and other leaders of the American revolution and later gave delightful reminiscences of his visits to the national capital.

He was a judge of the probate court of Connecticut for more than thirty years, twice refused the nomination for governor of the state, and aided in electing to that office his brother, Oliver Wolcott, at the successive elections, 1818 to 1826. His duties as judge and state senator enabled him to live in Litchfield during his entire life. Inadequate health was the chief cause of his refusing office which would call him away from home.

Died in Litchfield, May 28, 1837.

Married, 1st, October 12, 1800, Betsy Huntington, daughter of Joshua and Hannah Huntington, of Norwich, Connecticut. She was born November 8, 1774, died April 12, 1812.

Married, 2d, July 21, 1815, Sally Worthington (Goodrich) Cooke, born August 7, 1785; died September 14, 1842; daughter of Reverend Samuel Goodrich, of Berlin, Connecticut, granddaughter of Reverend Elizur and Elizabeth (Ely) Goodrich, and widow of Amos Cooke, of Danbury, Connecticut. She was the mother of Elizabeth Cooke, who married Richard Wayne Stites, of Savannah, Georgia, and Morristown, New Jersey, and of Joseph Platt Cooke, M. D. (Yale 1827), who died at sea in 1835, unmarried, and was buried with the Wolcott family in Litchfield.

Issue (by first wife):

1. Mary Ann Goodrich Wolcott, b. August 9, 1801; m., May 22, 1827, Asa Whitehead, of Newark, New Jersey.

2. Hannah Huntington Wolcott, b. January 14, 1803; m., April 21, 1834, Reverend Frederick Freeman, of Sandwich, Massachusetts.

3. *Joshua Huntington Wolcott,* of whom below.

4. Elizabeth Wolcott, b. March 6, 1806; d. October 15, 1875; m., May 22, 1827, John P. Jackson, of Newark, New Jersey.

5. Frederick Henry Wolcott, b. August 19, 1808; m., first, June 12, 1838, Abby Woolsey Howland, daughter of Gardiner G. Howland, of New York. She died January 14, 1851. M., sec-

ond, January 18, 1855, Sarah Elizabeth Chase Merchant, daughter of General Charles S. Merchant, United States Army. Issue (by first wife): i. Frederick Henry Wolcott, b. October 30, 1845. ii. Gardiner Howland Wolcott, b. August 25, 1848, m. Oliver Huntington Wolcott, b. in 1850; d. in 1851. Issue (by second wife): iv. Charles Merchant Wolcott b. in 1855; d. in 1858.

6. Laura Maria Wolcott, born August 14, 1811; m., March 3, 1831, Robert G. Rankin, of New York and Newburgh, New York.

Issue (by second wife):

7. Charles Moseley Wolcott, b. November 20, 1816; m., first, November 1, 1843, Mary E. Goodrich, daughter of Samuel G. Goodrich. She died November 13, 1845. M., second, November 26, 1849, Catherine A. Rankin. He lived at "Roseneath," Fishkill Landing, New York.

8. Chauncey Goodrich Wolcott, b. March 15, 1819; d. October 28, 1820.

9. Henry Griswold Wolcott, b. November 4, 1820; d. in New York city, May 8, 1852; never married.

10. Mary Frances Wolcott, b. July 9, 1823; m., February 4, 1845, Theodore Frothingham, of Boston. Issue: i. Theodore Frothingham, Harvard, 1870.

VI

ELIHU WOLCOTT, second son and fourth child of Samuel and Jerusha (Wolcott) Wolcott, was born in the old homestead at South Windsor, Connecticut, February 12, 1784. His farm adjoined that of his father on the south. He represented his town in the Connecticut legislature, and in 1830 he removed with his family to Jacksonville, Illinois, where a site had just been selected for the future Illinois College. He engaged in merchandising and later in life devoted his time to the care of his real estate, which had rapidly increased in value. At his death his property was inventoried at one hundred thousand dollars.

Married, 1st, November 27, 1806, Rachel McClintock, youngest daughter of Dr. David McClure (Yale, A. B., 1769, A. M., 1773; Dartmouth, D. D., 1803). She died in 1820.

Married, 2d, May 13, 1823, Juliana, daughter of Erastus Wolcott of South Windsor, who died November 30, 1832, at Jacksonville, Illinois.

Married, 3d, September 7, 1835, Sarah C., daughter of Deacon John Crocker, of Derry, New Hampshire. She was born in Derry, New Hampshire, August 17, 1797, and died in Jacksonville, Illinois, August 4, 1844.

Issue (by first wife):

1. Elizabeth Ann Wolcott, b. December 26, 1807; m., November 28, 1832, Colonel Carlton H. Perry, of Keokuk, Iowa, an officer in the civil war.

2. Hannah McClure Wolcott, b. in East Windsor, Connecticut, June 7, 1811; d. in Jacksonville, Illinois, August 31, 1858; m., November 28, 1832, Reverend William Kirby (Yale A. B., 1827) who was born in Middletown, Connecticut, July 2, 1805, and d. in Winchester, Illinois, December 20, 1851. Issue seven children.

3. *Samuel Wolcott*, of whom below.

4. Arthur Wolcott, b. April 10, 1815; m., first, July 12, 1849, Sarah Ann, daughter of General William Morrison, of Lock Haven, Pennsylvania; m., second, Clara, daughter of General William G. Belknap, U. S. A., of Newburgh, New York. Issue (by second wife): Bertha Belknap Wolcott, b. April 10, 1865, in Keokuk, Iowa.

5. Elizier Wolcott, b. August 7, 1817, d. in 1901; Yale A. B., 1839; m., July 15, 1846, Martha Lyman, daughter of Daniel Dwight of Amherst, Massachusetts. He engaged in railroad service as civil engineer until failing health obliged him to retire and he lived in Jacksonville, Illinois, where he kept up his literary pursuits and was superintendent of the erection of water works for the town. Issue: i. Leofwyn Wolcott, (1847-1858). ii. Edith Dwight Wolcott, b. in 1850. iii. Elihu Wolcott, (1859-1860). iv. May Wolcott, b. May 14, 1863.

6. Frances Jane Wolcott, b. March 30, 1819; m., January 2, 1849, Major Barbour Lewis (Illinois College A. B., 1845); was a soldier in the Civil War, lawyer in Memphis, Tennessee,

and representative for the Memphis district in the United States congress.

Issue (by second wife):

7. Helen Maria Wolcott, b. July 9, 1824, d. May 13, 1831.

8. Ella Louisa Wolcott, b. January 4, 1828.

9. Julia Ann Wolcott, b. June 20, 1829; m., November 19, 1846, William C. Carter, (Illinois College A. B., 1845).

Issue (by third wife):

10. Sarah Elizabeth Wolcott, b. May 12, 1837, d. September 6, 1838.

11. Richard Wolcott, b. January 10, 1840, (Illinois College A. B., 1859). He was captain in the civil war; attorney at law in Springfield, Illinois. M., July 11, 1865, Jane Van Vechten, daughter of James D. B. Salter of Springfield. Issue: i. Cordelia Leland Wolcott, b. May 9, 1866. ii. Lucy Salter Wolcott, b. November 13, 1867. iii. Ella Richard Wolcott, b. July 5, 1873, d. February 3, 1875.

JOSHUA HUNTINGTON WOLCOTT, eldest son and third child of Frederick Wolcott and Betsey (Huntington) Wolcott, was born August 29, 1804. He was a partner in A. and A. Lawrence and Company, of Boston, and treasurer of the New England Sanitary Commission during the civil war.

Died January 4, 1891.

Married, 1st, Cornelia Frothingham, daughter of Samuel Frothingham, of Boston.

Married, 2d, November 12, 1851, Hannah Frothingham, sister of his first wife.

Issue (all by first wife):

1. Huntington Frothingham Wolcott, b. February 4, 1846; d. June 10, 1865.

2. *Roger Wolcott,* of whom below.

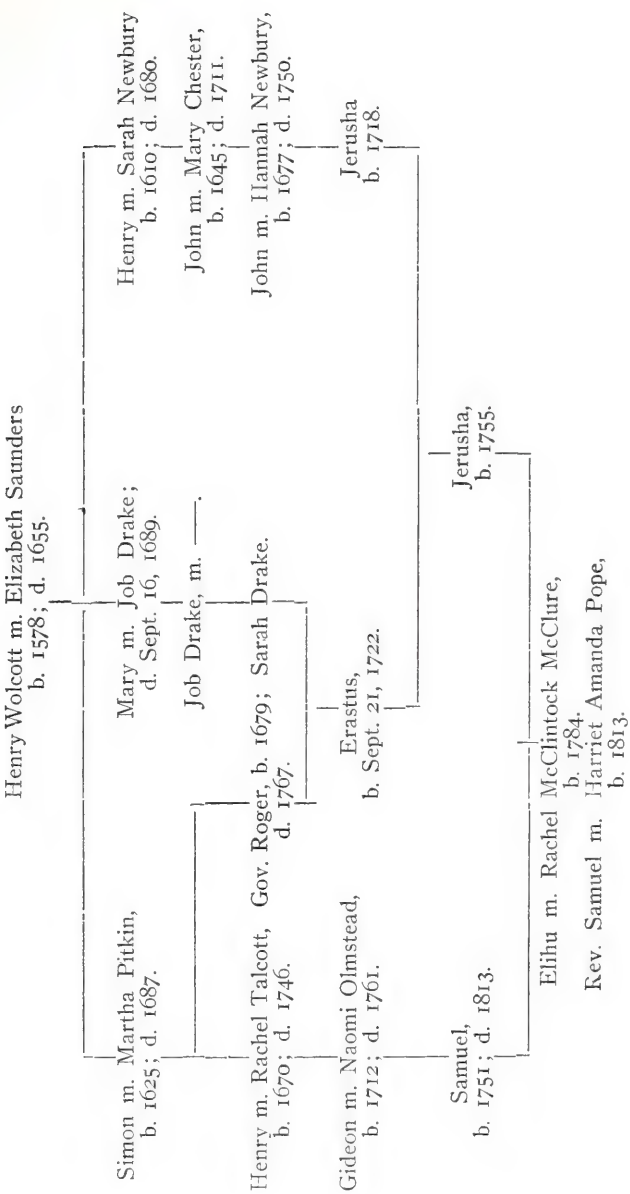
VII

SAMUEL WOLCOTT, eldest son and third child of Elihu and Rachel McClintock (McClure) Wolcott, was born in South Windsor, Connecticut, July 2, 1813. He was prepared for col-

lege at East Windsor Hill Academy, then conducted by William Strong, subsequently associate justice of the United States supreme court. He matriculated at Yale in 1829 with the class of 1833 and was commencement orator at his graduation, the subject of his oration being, "The Proper Direction of American Enterprise and Talent." He was graduated A. B., in 1833, A. M., in 1836, and pursued a course in theology at Andover, graduating B. D., in 1837, being ordained to the Congregational ministry in Boston, November 13, 1839. Mr. Wolcott was twice married, first, on September 5, 1839, to Catherine Elizabeth Wood, daughter of Ezra Wood, of Westminster, Massachusetts. Immediately after his ordination, he went with his wife as missionary to Beirut, Syria, where his wife died on October 26, 1841, and Mr. Wolcott returned soon after, to Boston. He married, second, November 1, 1843, Harriet Amanda Pope, daughter of Jonathan A. Pope, of Millbury, Massachusetts.

Mr. Wolcott served as pastor successively in Longmeadow, and Belchertown, Massachusetts; in Providence, Rhode Island; in Chicago, and in Cleveland, Ohio. In 1863, he received the honorary degree of S. T. D. from Marietta College. After Dr. Wolcott's retirement from active pastoral work, he remained in Cleveland for ten years as secretary of the Ohio Home Missionary Society. At this time also he completed his work as writer of the "Wolcott Memorial," a work to which he had at two different periods, in his younger years, given much time. This sumptuous volume, prepared by Dr. Wolcott, was published at great expense by the three brothers, Huntington, Frederick, and Charles Wolcott, of the Litchfield family, and was privately distributed, the edition having been limited to a few hundred copies. In 1884, Dr. Wolcott returned to New England, and lived at Longmeadow, Massachusetts, where he died February 24, 1886.

His forbears having in three generations married Wolcott cousins, he and his brothers and sisters, and their descendants have complicated lines of descent from Henry Wolcott, the emigrant ancestor of the family, best shown by the following diagram:



Issue (all by second wife):

1. *Samuel Adams Wolcott,* of whom below.
2. *Henry Roger Wolcott,* of whom below.
3. *Edward Oliver Wolcott,* of whom below.

4. Harriet Agnes Wolcott, b. March 15, 1850; m., April 29, 1879, Frederick O. Vaille, Harvard, A. B., class of 1874; lives in Denver, Colorado. Issue: i. Harriet Wolcott Vaille. ii. Edith Wolcott Vaile, m. Otis Weekes, and has three children. iii. Agnes Wolcott Vaille.

5. *William Edgar Wolcott,* of whom below.

6. Katherine Ellen Wolcott, b. August 25, 1854; m., November 25, 1880, Charles Hansen Toll, Hamilton, A. B., 1872; resided in Denver, where he was attorney-general of the State in 1880. Issue: i. Charles Hansen Toll, m. Mayes Martin, granddaughter of United States Circuit Judge Henry C. Caldwell. Has one daughter. ii. Roger Wolcott Toll, m. Marguerite Cass, of Denver. iii. Henry Wolcott Toll. iv. Oliver Wolcott Toll.

7. Mary Alice Wolcott, b. July 24, 1856; d. February 3, 1858.

8. Anna Louise Wolcott, b. May 25, 1858; attended Wellesley College; Principal Wolfe Hall, Denver, 1892-1898. Founded, with the financial aid of her brother, Henry, "The Wolcott School for Girls," in Denver. Principal of the same 1898 to 1913. Regent of the University of Colorado from 1910. Member of the Board of Managers of the School of American Archæology. Third Vice-president, Western Chapter of National American Red Cross Society. M., January 4, 1913, Joel Frederick Vaile, A. B., Oberlin College, law partner of her brother, Senator Edward O. Wolcott; delegate 1880 from Indiana to Republican National Convention. Resides in Denver.

9. Clara Gertrude Wolcott, b. December 17, 1859, A. B., from Smith College, 1882.

10. *Herbert Walter Wolcott,* of whom below .

11. Charlotte Augusta Wolcott, b. October 20, 1863, A. B., Smith College, 1887. M., January, 1904, Captain Charles Francis Bates, 25th Infantry, U. S. A., d. April 16, 1912. Issue: Roger Wolcott Bates, b. December 28, 1904.

ROGER WOLCOTT, second son of Joshua Huntington Wolcott and Cornelia (Frothingham) Wolcott, was born in Boston, Massachusetts, July 13, 1847. He was prepared for college in private schools in Boston and was graduated at Harvard College,

A. B., 1870, LL.B., 1874, serving as class orator at the commencement exercises in 1870. He was tutor in the college, 1871-2. In 1874 he was admitted to the Suffolk bar and was a practising lawyer in Boston for only a short time, as the care of his investments and those of his mother engaged his attention. He early became interested in politics and was elected a member of the common council of the city of Boston by the Republican party in 1876. He held that office in 1877, 1878 and 1879 and again in 1887 and 1889. In 1882 he was elected a representative to the general court of Massachusetts, and served in the lower branch of the legislature, 1882-85. In 1884 he worked and voted against the election of the Blaine and Logan Republican ticket. He was a delegate to the Massachusetts state convention of the Republican party in 1885. He instituted the reform movement within the Republican party in Massachusetts known as the "Mugwump" movement, and when the Young Men's Republican Club was formed in 1891 as a definite organization as the result of this reform movement, he was elected its first president. As the club expanded, the name was changed to the Republican Club of Massachusetts, and in 1892 his name was placed before the voters of the commonwealth as a reform candidate for lieutenant-governor, the ticket being headed by F. T. Greenhalge for governor. The reform movement split the ticket and William E. Russell, Democrat, was elected governor, and Roger Wolcott, lieutenant-governor. In 1893 the Republican party renominated the ticket of 1892 and elected it, and he thus served as lieutenant-governor in 1892 and 1893. He was renominated and re-elected in 1893, 1894 and 1895 and served as lieutenant-governor 1894, 1895 and 1896. On the death of Governor Greenhalge in 1896, he became acting governor under the law of the commonwealth, and he was elected governor in November, 1896, 1897 and 1898 respectively. He declined renomination in 1899 and also declined to become a member of the Philippine commission or to be United States ambassador to Italy the same year, each honor having been proffered and urged upon him by President McKinley.

He was elected a member of the Boston Citizens Association and the Civil Service Reform Association, a trustee of the

Massachusetts General Hospital and an overseer of Harvard University, 1885-1900. He was a member of the St. Botolph, Somerset, Union, Athletic and New Riding clubs of Boston. He received the honorary degree of LL.D. from Williams College in 1897.

Died in Boston, December 21, 1900.

Married, September 2, 1874, Edith Prescott, daughter of William Hinckley Prescott, granddaughter of William Hinckley Prescott, the historian, and great-granddaughter of Colonel Willam Prescott, who was in command of the provincial troops at the battle of Bunker Hill in 1775.

Issue:

1. *Roger Wolcott,* of whom below.

VIII

SAMUEL ADAMS WOLCOTT, eldest son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, September 3, 1844. He was a member of the class of 1866 at Yale College, but was obliged to leave before the close of his course, because of asthma, with which he suffered all his life. He sought an out-of-door life and located at Laredo, Texas, where he acquired a large tract of land, some twenty-six thousand acres, and became a stock raiser. He served during the Civil War, around the Gulf of Mexico both in the army and navy.

Died, at New London, Connecticut, November 30, 1912. Married, July 27, 1883, Julia E. Neale, of Brooklyn, New York.

Issue:

1. *Roger Henry Wolcott,* of whom below.

HENRY ROGER WOLCOTT, second son of Dr. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, March 15, 1846. He was educated in schools at Providence, Rhode Island, Chicago, Illinois, and Cleveland, Ohio, in which cities his father was located as pastor. He served in various positions in banks in Cleveland for four years, except for a short time in 1864. When eighteen years of age, he enlisted

in a Cleveland regiment for one hundred days' service and was sent to the defense of Washington, District of Columbia. He was transferred, by his own request, to the one hundred and fortieth regiment and served until the regiment was mustered out, in the fall of 1864. He then engaged in business in Springfield, Massachusetts, and later in Chicago, Illinois, removing, in 1869, to Colorado, where he located at Black Hawk and became interested in mining. In 1870 he associated himself with the Boston and Colorado smelting works at Argo, continuing his connection with this company for seventeen years, during which time he became manager.

He took an interest in local politics and in 1878 was elected state senator from Gilpin county and was an active member of the state legislative sessions of 1879 and 1881. During the latter session he was president pro tem of the senate, and, by reason of the death of Lieutenant-Governor Robinson during the absence of Governor Pitkin from the state, was acting governor. In 1888 he was chairman of the Colorado state delegation to the national republican convention at Chicago.

Mr. Wolcott for several years was a director of the Equitable Life Assurance Society of New York. He was president of the Denver, Utah and Pacific railroad, one of the organizers and was for years vice-president of the First National Bank of Denver. He was a benefactor of Colorado College, Colorado Springs, and built the Wolcott Observatory for the use of the college. He was one of the charter members of the Denver Club and served as its president seventeen years while a resident of Colorado. He has, for many years, persistently refused to accept any public office.

He is a member of the following clubs: Union, Union League, University, Bridge, American Yacht, New York Athletic, Automobile Club of America, New York Yacht, Larchmont Yacht, Racquet, Tennis, Whist, of New York and vicinity, and the Metropolitan Club of Washintgon.

EDWARD OLIVER WOLCOTT, United States Senator, third son of Rev. Dr. Samuel and Harriet Amanda (Pope) Wolcott, was born in Longmeadow, Massachusetts, March 26, 1848.

He received his schooling at the Norwich Academy and at Cleveland was prepared for Yale, which he entered with the class of 1870

In 1864, at the age of sixteen, responding to the urgent call for volunteers for the temporary defense of Washington, he enlisted in the one hundred and fiftieth regiment, Ohio volunteers. When the necessity for these troops had passed away, he returned to his studies. After passing through his freshman and sophomore years at Yale, he decided to fit himself as rapidly as possible for the practice of law and entered the law office of C. T. and T. H. Russell, in Boston, Massachusetts, at the same time pursuing a course in law at the Harvard University law school, from which he was graduated LL.B. in 1871. He removed to Colorado the same year, to join his brother, Henry Roger Wolcott, who was living at Black Hawk, Gilpin county. There he taught school for a short time, later removing to Georgetown, Clear Creek county, where he opened a law office. While awaiting clients, he contributed entertaining letters to the press of the territory and some of the prominent eastern journals, and for a time edited the "Georgetown Miner." He gained little prominence as a lawyer until 1876, when he was elected to the office of prosecuting attorney for the first judicial district, comprising the counties of Jefferson, Gilpin, Clear Creek and Boulder. Thenceforth his rise at the bar was rapid. Some time before the expiration of his term, he had accomplished the unprecedented feat of clearing the docket of the district of all criminal cases in a manner to compel the admiration of court, lawyers and jurors. Having executed his mission as district attorney to the satisfaction of all, he resigned, and in 1878, being elected state senator, at once became a leading figure. In 1879 he was made attorney of the Denver and Rio Grande Railway Company and removed from Georgetown to Denver, where, in addition to his railway business, he had a large private practice. In 1884 he was elected general counsel of the road. In 1888 he was elected to the United States senate, to succeed Thomas M. Bowen, his term beginning March 4, 1889. In the senate he was conspicuous for his oratory and for his advocacy of the free coinage of silver, doing much to gain for the new measure the

support of the republican party. He held to these views up to the time of the nomination of William J. Bryan for president by the national democratic party in 1896 on a free-silver platform, when he decided to support the fusion ticket in Colorado, which received a plurality of one hundred thirty-two thousand, four hundred and three votes in 1896 and of twenty-nine thousand, six hundred and sixty-one in 1900, by reason of the productive interests centered in the silver mines. Outside of these local interests, Senator Wolcott remained in the ranks of the republican party. In January, 1895, he was re-elected by the tenth general assembly of Colorado, his second term beginning March 4, 1895, and expiring March 3, 1901. Notwithstanding his attitude on the silver question, Senator Wolcott refused to support William J. Bryan as a presidential candidate. Upon the first defeat of Bryan and the national defeat of the free silver party, the new administration, at the suggestion of President McKinley, who, like Wolcott, had been, before the nomination conventions, an advocate of the free coinage of silver, appointed a commission consisting of Charles J. Payne, of Massachusetts, Adlai Stevenson, late vice-president of the United States, and Senator Wolcott, to informally visit the capitals of Great Britain, France and Germany to learn the views of these governments on the subject of securing international agreement on the question of bimetallism. At the close of his second senatorial term, March 3, 1901, Senator Wolcott retired from official life.

In 1896 Mr. Wolcott received the degree of LL.D. from Yale University.

Died suddenly, while abroad, March 1, 1905.

Married, May 14, 1890, Frances (Metcalf) Bass, widow of Lyman K. Bass of Buffalo, New York.

WILLIAM EDGAR WOLCOTT, fourth son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born at Belchertown, Massachusetts, on April 26, 1852; Oberlin College, A. B., in 1874, and was graduated from Andover Theological Society in 1881. He was employed on the *Springfield Republican* previous to the death of the elder Samuel Bowles, for whom he felt great

admiration. During his Andover course, he had become very much interested in the millworkers at Lawrence, Massachusetts, and lived among them until 1885, when he accepted a call to the historic first church of Lawrence where he remained until his death, twenty-six years later, a strong factor in the civic as well as the religious life of the city.

Died, at Lawrence, Massachusetts, May 16, 1911.

Married, in 1894, Cora Wadsworth of Lawrence, who only lived for a year after their marriage.

Issue:

1. Samuel Wadsworth Wolcott, b. March 12, 1895.

HERBERT WALTER WOLCOTT, fifth son of Rev. Samuel and Harriet Amanda (Pope) Wolcott, was born in Chicago, Illinois, November 25, 1861; Yale College, A. B., 1884. He studied law in Denver and in the Columbia Law School, New York city. He practiced law in Kansas City and later in Cleveland, Ohio. Mr. Wolcott was president of the Tippecanoe Republican Club during the nomination and election of President McKinley. He was a member of the Ohio State Senate (1898-1900) and was one of the seventy-three Republicans who elected Mark Hanna United States senator over seventy Democrats and bolting Republicans. Later he removed to Kansas City, where he constructed a suburban electric railway to Leavenworth, Kansas; and afterwards resumed the practice of law and returned to Cleveland.

Married, in 1898, Nettie May Gabriel, daughter of William H. Gabriel, of Cleveland, Ohio.

Issue:

1. Mary Gabriel Wolcott, b. April 30, 1902.
2. Harriet Amanda Wolcott, b. July 22, 1905.
3. Edward Oliver Wolcott, b. September 12, 1911, d. June 10, 1912.
4. Henry Roger Wolcott, b. August 4, 1913.

ROGER WOLCOTT, eldest son of Roger and Edith (Prescott) Wolcott, was born in Milton, Massachusetts, July 25, 1877. He was prepared for college in the Boston Latin school and was

graduated at Harvard, A. B., 1899, and at Harvard University law school, LL.B., 1902. His practice began in the law department of the Boston Elevated Railroad Company, where he was engaged from 1902 until 1906, when he established himself in general law practice in Boston, which he has prosecuted with eminent success.

He was a member of the finance committee and chairman of the elective committee of the Republican Club of Massachusetts and is a member of the Boston Bar Association and of the Civil Service Reform Association of Boston. His business responsibilities include membership in the Provident Institution for Savings and the Suffolk Savings Bank, and directorships in the Lowell Machine Shop, the Everett Mills and the York Manufacturing Company.

His hereditary affiliations include membership in the Military Order of the Loyal Legion, Society of the Cincinnati, Society of Colonial Wars, Bunker Hill Monument Association, Old South Society, and Milton Historical Society.

His personal military service was as private in the First Massachusetts Heavy Artillery, United States Volunteers (1898) and as private, corporal, second lieutenant, first lieutenant, captain and regimental adjutant in the Massachusetts Volunteer Militia.

Married, in Boston, June 7, 1904, Claire Morton Prince.

IX

ROGER HENRY WOLCOTT, only child of Samuel Adams Wolcott, was born at San Antonio, Texas, January 12, 1885. He was graduated from Yale University, A. B., in 1905, and received the degree of LL.B. from the Colorado Law School in 1907. He resides in Denver, Colorado.

Married, October 28, 1907, Louise Dugal, daughter of Louis Dugal, of Denver.

Post Bellum Letters From Ohioans

From the Doolittle Correspondence

CONTRIBUTED BY DUANE MOWRY, OF MILWAUKEE, WISCONSIN

THE subjoined letters, which were found in the personal correspondence of the late ex-Senator James R. Doolittle, of Wisconsin, are interesting and valuable as showing, to some extent, the political drift in the North at a time shortly following the civil war. The authors were then residents of Ohio and had a large prominence in the public eye of their state. Mr. Doolittle, too, who was regarded as fit presidential timber, was frequently consulted by public men from every part of the country. These letters amply verify that.

The letters of Mr. Campbell indicate that he had a personal interest in writing to his friend, the senator from Wisconsin, securing the confirmation of his nomination as minister to the then Republic of Mexico. But his letter of April 25, 1866, also discusses the existing and growing public sentiment against President Johnson and his administration as he finds it in his own state of Ohio, on his return from Washington. This sentiment was not exceptional nor was it confined to Ohio. The feeling everywhere existed in the North that the President's pacific policy toward the warring states of the South was wholly unwelcomed and undesired. Mr. Campbell states the real situation none too strongly.

By the time the D. P. Rhodes' letter was written, in June, 1868, public sentiment had eliminated Mr. Johnson as a presidential possibility to succeed himself. And the letter clearly emphasizes that fact. It is true that Mr. Rhodes did not prove to be a wise political prophet as to the nominee. However, if his suggestion of a Western man had been heeded, victory might have

waited upon the efforts of those who opposed a more or less heartless policy with reference to the recently seceded Southern states. As it developed, the ticket headed by Horatio Seymour, of New York, was compelled to give way to that introduced by Gen. Ulysses S. Grant, who was then the idol of the hour.

Scarcely less important, from the viewpoint of political history of the time, is the letter of Edward L. Anderson, which clearly foreshadows the growing discontent of the first administration of President Grant in some quarters. It also shows the high esteem in which Senator Doolittle was held among those who championed a somewhat different policy than that of the party in power at the time, undoubtedly written in 1872.

From a purely political point of view, the letter signed "T. E.," which is, without doubt, that of the Hon. Thomas Ewing, is most important of all those submitted. Of course, the letter discusses the political situation in a free and frank manner and was, evidently, intended to be confidential, as an injunction to burn it would indicate. But that request was not observed, apparently, and there can be no real objection to exposing its contents at this late day, more than forty years after its writing. The real significance of the letter is to be found in the view of the Democratic party entertained by the writer.

All of these letters, however, will be appreciated by those who are students of the subjects and the times to which they relate.

"Lancaster, O., Feb. 6, 1873.

"My Dear Sir:—I have, as yet, sold only half the block, & have not received from the sale enough cash to meet the pressing and overdue incumbrances. I send, however, herewith my note to your order at 90 days with interest for $500, which may be preferable to you than to wait the completion of the now pending sale for the balance. If you cannot use the note satisfactorily, please return it, & I will remit you the $500 as soon as the sale is completed.

"I would like to see you to talk over the future of parties, having great confidence in your practical sense & breadth of vision. I shall be sent to our Constitutional Convention which meets on the 1st of May in Columbus. The Democracy are de-

termined I shall run for Governor, too, & I go to the Convention *partly* to be freer to decline the nomination if need be. No one else is named as a candidate. The difficulty in my mind is that I have come to regard the Democratic *organization* as only the hoops of the Republican barrel, & I don't want to strengthen & tighten the hoops. Don't the Liberal Republicans so regard our organization? *Is* it, or has it been since 1865, of any other use than that bad use? Must *it* not, therefore, be destroyed before the Republican party can fall to pieces, & new parties form on *post bellum* issues? Please send me a copy of Ill's Constitution. Were the debates in the Ill. Convention published? Send me any literature of that Convention you have. *Burn this*: & I will so treat yr. answer. "T. E."

NOTE.—That part of Mr. Ewing's letter which deals with the political situation will be interesting reading. And it should be borne in mind that Judge Doolittle and Mr. Ewing were warm personal friends and admirers. Mr. E. was especially frank in avowing his great respect for Mr. Doolittle's political judgment and acumen. D. M.

"WILLARD'S HOTEL, WASHINGTON, D. C., April 16, 1866.

"DEAR SIR.—I have remained here patiently for two months awaiting the action of the Senate on my nomination as Minister to the Republic of Mexico, which the President,[1] in his kindness, saw fit to make without any solicitation, direct or indirect, from me.

"During this time I have fastidiously avoided calling on Senators on this subject or any other; but the situation of my family in Ohio and my private business (being engaged largely in farming) is such as to render it very important to me to have this matter decided.

"As you are a member of the Committee on Foreign Relations, I venture to ask of you as a personal favor that you will attend the Committee meeting to-morrow (Tuesday) morning and put an end to the suspense which has been to me exceedingly unpleasant.

"Very truly yours &c.,

"LEWIS D. CAMPBELL.

1. President Andrew Johnson.

"Hon. J. R. Doolittle,
"*U. S. Senate.*"

"Hamilton, O., April 25, 1866.

"Dear Sir.—My continuous presence at Washington for several weeks was rather on the suggestion of the President than from any pleasure I derived. My position was at once delicate and embarrassing. Being hung up in the Senate by a nomination which I had never directly or indirectly solicited (and which, perhaps, was one 'not fit to be made') I could not with my sense of propriety call on Senators to consult about general politics or to discharge courtesies due to them under other circumstances.

"On Sunday last I received information from home of the illness of one of my daughters and that an important business interest amounting to several thousand dollars required my immediate return. Therefore, I took the first train without bidding adieu to the President whom I had promised to remain another week. I arrived here last night weary and tired.

"I find the President has lost ground among the people rapidly of late. Nineteen-twentieths of all the Post Masters, Revenue Collectors, Assessors, &c., in Ohio are bitterly opposing him. They are circulating broad-cast such libellous sheets as the 'New York Independent,' the 'Right Way'-Speeches of Radicals in Congress and such other similar documents as they can get, misrepresenting his policy and slandering him personally. Of what account is it to have Heads of Departments composed of friends—*real* or *pretended,* if their tens of thousands of subalterns all over the land are permitted to remain in official position actively operating as his *real enemies,* and the enemies of the few friends he has in Congress, like yourself and Cowan[1] and Dixon,[2] who have mainfully defended him? I tell you, my dear Sir, that the friends of the President's policy are everywhere becoming disheartened. The Commander in Chief of a great army can never win a battle, if he permits his enemy to seize his batteries, his arms, and his ammunition. Nor can he have a well-organized army if his Corps Commanders are unreliable, or keep

1. Senator from Pennsylvania.
2. Senator from Connecticut.

in service subalterns who fight for the enemy. Now, I have talked to the President and written to him on this subject until I have worn it thread bare. If he does not move in the proper direction very soon, his friends among the people will feel like grounding arms.

"I do not expect to go to Washington again unless called there by important necessities. It has become apparently a God-forsaken place, where an honest man, having urgent business, might venture to stay, but where one having no business must expect to 'fall among thieves,' who will steal his money or his character—perhaps both. As I do not profess to have too much of either of these important articles, I shall not soon again venture to that seat of sin and iniquity.

"In reference to my case, I may say to you without any impropriety, that our two Senators were the only members of your body that I felt at liberty to converse with freely. Both have uniformly and voluntarily professed the most earnest solicitude to have me confirmed. Since my return home my friends have informed me that they have sent to Senator Wade[3] important papers on the points of personal character and merit. And I may here add that I have lived in this and the adjoining county all my life—now 55 years—in this county 35 years. If these papers have not been read to the Committee, I hope you will request, if necessary, that they be read. If I am to be rejected because I favor the President's policy, let it be so stated. If because the Monroe Doctrine is to be ignored by the Senate, let it be so stated. If for personal objections, let it be so stated. It would seem hard to have me knocked in the head or kept hanging in suspense, simply because the Senate may not wish to offend the French Empire or Maximilian. I am not so anxious to hold any office as to barter away my fixed political principles. The confirmation is more desirable to me as a matter of personal pride than for any emoluments it may bring, and I shall ever feel grateful for any act of kindness you may be able consistently with your duties as a senator, to confer.

"I shall be glad to hear from you on the 'political situation' generally, if you have time to write, or to have you communicate

3. Senator B. F. Wade, of Ohio.

any information or advice compatible with your duty touching my personal matter.

"As I did call on you in person as I designed doing before my return home, I take the liberty of enclosing my *carte de visite.*

"In haste.

"Very truly yours &c.,

"LEWIS D. CAMPBELL.

"HON. J. R. DOOLITTLE,
"*U. S. Senator,*
"Washington, D. C."

"CLEVELAND, JUNE 24, '68.

"MY D'R SIR:—Yours I found upon my return home yesterday, or should have answered ere this. I shall go to N. Y. tomorrow and will then look the ground over and see what I can do. My impression is, however, that Pendleton[1] will be nominated. His financial policy takes with the People in the West, and I have no doubt that two-sevenths of the Republicans in Ohio, Indiana & Illinois would vote for him.

"We must have a Western man, and should Pendleton not prove to be that man, I am free to say I would like to see yourself the Compromise Candidate.

"But no Hancock[2] or Chase[3] for me. We are all well. With kind regards for your family, I am, "Yours Truly,

D. P. RHODES.

"Hon. J. R. Doolittle,
"Washington, D. C."

"70 PIKE ST., CINCINNATI, O.

"HON. J. R. DOOLITTLE—

"MY DEAR SIR:—In answer to your letter of the 24th, I have to report that Mr. Groesbeck's[1] friends say that he will have nothing to do with the New York meeting whatever. And that he

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1. Hon. George H. Pendleton of Ohio.
2. Hon. Winfield S. Hancock.
3. Hon. Salmon P. Chase.
1. Hon. W. S. Groesbeck of Ohio.

NOTE.—This letter is without date. It must have been written, however, in 1872. It refers to the presidential campaign of that year. D. M.

hopes that they will send him no communication that requires an answer. Mr. Groesbeck will stand by the nominee of the Baltimore Convention—and I think his friends have hopes that he will be the man.

"I understand a letter from Groesbeck will be read at the Cleveland Convention to-morrow—if so I will send you a copy.

"Father sends his regards to you, and says that he regrets that he was not at home to entertain you.

"We shall all be glad to welcome you again.

"My wife sends her regards.

"I am sincerely your friend,

"Edward L. Anderson.

"P. S.—Thanks for the copy of your correspondence with Oberly. In that, as in everything you have said and written on the political questions of the hour, I find sound judgment and fairness. I hope that the country will have the benefit of your knowledge in the *coming* administration."

Enoch Crosby, the Continential Soldier, the Original of Cooper's Harvey Birch, the Patriot Spy

BY J. C. PUMPELLY, A. M., LL.B.

HISTORIAN EMPIRE STATE SOCIETY, S. A. R.

IN some districts in America during the Revolution many of the colonists, as in Westchester county, took part with the crown, and this influence united with those Americans who refused to give up their allegiance for pecuniary and other reasons, gave quite a preponderance to the royal cause.

Congress appointed a special and secret committee in Westchester and Dutchess counties to prevent the raising of companies of Tories to go to New York and enlist with the British.

This part of Westchester called the "Neutral Ground" was territory of peculiar difficulty and danger and subject at all times to reckless and cruel raids by the "cow boys" the riff raff of both armies. This is well portrayed in the first part of "the Spy" bringing in Washington himself under the name of Harper as a traveler stopping with Mr. Wharton, an Englishman and owner of the "Locusts" where also was the latter's son, Harry Wharton, a British officer in disguise and Captains Lawton and Dunardin of the Continental Line and Harvey Birch, peddler and shoemaker by trade, but in reality the "Spy" and the real hero of the story.

Those who have seen the colored moving pictures of this remarkable story will recognize the truthfulness of every crucial scene in the life of the spy, and furthermore if one will read Miss Phillips' "James Fennimore Cooper" and "Memoirs of Colonel Henry Ludington" he will discover that Enoch Crosby or Harvey Birch, peddler and spy, was a real bona fide charac-

ter, and as Cooper says "was poor, ignorant so far as the usual instruction was concerned, but cool, shrewd and fearless by nature." And indeed he was not only all this, but was possessed of physical strength, alertness and ability for invention and strategy that were remarkable.

As the tories in this "Neutral Ground" which extended from the Sound to the Hudson and from Harlem to Peekskill, were the most virulent and implacable enemies the friends of liberty had to contend with, it was a signal interposition of Divine Providence that this man Harvey Birch should have appeared in the nick of time and have proved himself such a successful agent in counteracting the machinations of these insidious enemies.

At this time (1775-76) in the four counties of Dutchess, Westchester, Orange and Ulster there were only three thousand one hundred armed and trustworthy militia, while there were ten thousand three hundred disaffected Tories and two thousand three hundred slaves to be held in order. John Jay, afterwards Governor, was one of this Committee of Safety, and William Duer and Jay and Ludington were leaders in the local committee in Fredericksburg Precinct. Every inhabitant was obliged to align himself either with the Patriots or the Loyalists, and every man between the ages of sixteen and fifty had to furnish himself with a good musket or firelock, bayonet, sword or tomahawk, a steel ramrod, worm, priming, wire and brush fitted thereto, a Cartouch Box to contain twenty-three rounds of cartridges, twelve flints, a knapsack and one pound of powder and three pounds of bullets, and to fail in this was to incur a certain stated fine.

And now a word about Enoch Crosby's family and bringing up. Crosby, in 1753, when but three years of age, was brought by his father to a farm the latter owned in the township of Southeast, Dutchess County, New York. He was blest with parents whose tenderness was only equalled by the rectitude of their lives, and the natural scenery about the home being romantic and picturesque no doubt contributed to tinge his infantile mind with that cast of romance and adventure which so much influenced the actions of his riper years. Ive's Hill, a high and romantic eminence in the town, was the theatre of many of his ex-

ploits. He was endowed by nature with many physical advantages and generally bore away the palm in every athletic exercise.

The Crosby family were staunch Whigs and so was a majority of their fellow townsmen. The father suddenly found himself reduced from a state of comfort and comparative affluence to poverty and distress and Enoch, the boy, had to leave home and seek his fortune elsewhere. "At the age of sixteen," he says, "I was compelled to leave home and seek the protection of strangers and with only a change of clothes and a few shillings in my pocket I bade a long adieu to the friends I best loved, and the scenes of my happiest days. My parents gave me their blessing, much good advice and a small Bible, I clasped their hands but dared not trust my voice to say farewell as I left my poor mother in an agony of tears."

He became an apprentice to a worthy man in Kent, Putnam County, who taught him the "art and mystery of cordwainer." He faithfully fulfilled his term of service which terminated January 4, 1771, when he was twenty-one years of age. He then joined a trainband and became an active and efficient member. His first service in the army was a private in Captain Benedict's company, Colonel Waterbury's Regiment, which reported to the Provincial Congress of Massachusetts then in session at Watertown. His company was ordered to New York where they went and encamped on the spot afterwards called Vauxhall Garden. They joined Montgomery's force at Albany and on August 21st arrived at Ticonderoga.

"He was a noble fellow that" Montgomery writes, "every soldier in the army loved him like a brother."

Referring to the attack on St. Johns, Crosby says, "I was one of the number that marched into the fort to the tune of Yankee Doodle and took charge of the prisoners," and he was at the taking of Montreal also. He then left the army and returned to the trade of shoemaking at Danbury where he remained until January, 1776, when the death of Montgomery, his beloved, even adored, general so affected Crosby that he sought a change of scene and went off on a visit to his friends in Kent. But in 1776 he was again on his way to the headquarters of the army to again

enter the service. He was then twenty-seven years of age, nearly six feet tall and very muscular. Cooper says: "His eyes were gray, sunken, restless and for the flitting moments that they dwelt on the countenance of those with whom he conversed seemed to read the very soul." When these lines were written by Cooper he was at the Angevine farm only thirty miles from where, at Carmel, Putnam County, Crosby was passing his quiet life. The Spy and the Author never had a meeting. The body of dragoons introduced in the fifth chapter of the "Spy" are apparently Townsends Rangers and rough "Captain Lawton" is none other than Captain Townsend.

Crosby's first service as a spy and with the Rangers as per the orders of the Committee of Safety, then sitting at White Plains, of which Hon. John was Chairman, was started by these words of the Chairman: "There is a sufficient number of brave fellows to repulse our open and avowed enemy, but he who succeeds in bringing to justice the wretches who in midnight cabals are plotting our destruction, deserves infinitely more of his country than he who fights his battles. Are you willing to engage in such service?"

"I am willing," answered Crosby "to encounter any danger and make any sacrifice (my honor only excepted) in the service of my country."

And he more than fulfilled his promise as he was as often arrested by the Continentals as a British spy, as by the British as a spy from his own American forces.

"We will furnish you with a pass" said the Chairman, "for your protection, but it must never be exhibited save with last extremity. Should you be arrested as an emissary of the enemy you shall be secretly furnished with the means of escape, but the secret of your real character must go no farther. Your dearest friend must not be intrusted with it."

The Spy then laid aside his muskets and instead of a knapsack he furnished himself with a large peddler's pack containing a complete set of shoemaker's tools, and then set forth with the ostensible object of searching for employment.

Through his intimacy with the tories who hailed him as a kindred spirit, he obtained information of the movements of the

enemy below and privately transmitted the same to his employers who knew him by the names of John Smith and Jacob Brown.

His first service as a volunteer spy occurred as follows when on his way to join Colonel Swartwout's regiment in Westchester county, he fell in with a tory who asked him to join a company of tories and go to New York to serve in the British army. This he pretended he would do and so started in with that role of secret agent and spy in which he thereafter did such worthy service as to receive special though secret commendation from Washington.

Of course *Birch* immediately reported what he had done to the American Committee of Safety and soon after this whole company of tories, including the spy himself, were captured and in charge of Captain Townsend's Company of Rangers.

So well did he carry out this, his first service for the cause of his country, that he was under orders from Washington transferred to the secret service, and the very next night he eluded his American guards and by hiding in an adjacent corn field he escaped to his Tory acquaintance, Bunker, through whom he gained further valuable information, which he gave to one of the Committee of Safety, and thus, the following day, he with another company of Tories was taken prisoner and locked up in the jail at White Plains. But soon he was secretly brought before the Committee for Detecting Conspiracies and his work approved, and having been bailed out by Jonathan Hopkins he was given a secret letter or pass and so set out upon his work with renewed confidence and hope.

Harvey's next move was to hire out to John Russell across the river, a strong loyalist neighborhood, and there he soon became intimate with a certain Captain Robinson who was forming a Tory Company, and with him he lodged for a week in a cave on the mountain side. When the company was about to start *Birch* recommended that each man should the night before starting sleep when he chose, and each be by himself, for if they should be discovered that night together all would be taken which would not so occur if they were separated, and they did as he advised. Then he went secretly to a Mr. Pardy, called by the Tories a "wicked rebel," and had him go and report to the Committee of

Safety where the Tories would stop the first night. This Pardy did, and the result was that when in the course of the next night the thirty Tories arrived at Bush Carricks and went into a barn to lodge, the place was surrounded by a company of Rangers under Captain Melancthon Smith and all were taken prisoners, including "the Spy," and were confined with one hundred and thirty other prisoners in the stone church in Fishkill.

The Committee then decided it was unsafe for *Birch* to remain with the prisoners as they might suspect him, so he went to the house of a Dutchman's farm about five miles from Fishkill, and there busied himself in making shoes, having duly kept the Committee informed of his whereabouts.

Soon after he had the opportunity to spy out another company of Tories being raised by a Captain Shelton and Lieutenant Chase. They were to meet the last of February three miles from a house occupied by Colonel Morehouse. All this *Birch* told the Colonel and the Committee as well as his particular friend, Colonel Ludington, and after the Tories had been at their meeting place two hours they were warned of the uniting of the Americans at Morehouse's, and started to escape, but all too late. They were surrounded and all made prisoners, and after being tied together two by two were taken off to jail.

It was the writer's good fortune to have at one time been engaged by his friend and fellow member in the Union League Club, Mr. Henry Ludington, to prepare and publish a memorial volume of his ancestor, Henry Ludington of the Revolution and serving in Dutchess County, and among the old papers, which Dr. Willis Fletcher Johnson included in the admirable sketch he prepared for this book, were letters and other data showing that Colonel Ludington was a staunch and faithful friend of the "Spy" who was frequently at the Colonel's house, and often lay hidden there while Tories were searching for him, and the Colonel's two daughters, Sibyl and Rebecca, were privy to the spy's doings, and having a code of signals they frequently admitted him in secrecy to the house and then fed and lodged him.

The story of "The Spy" was Cooper's first literary venture and was not signed as his own, but nevertheless it was a success,

and with this his literary career began. The book was written at his new home called *"Angevine Farm House,"* four miles from Mamaroneck, the property having come to his wife from her father, John Peter de Lancey, whose house was called "Heathcote Hill." And it was there Cooper, then a handsome young naval officer, wooed and won Susan de Lancey, the daughter, for his wife. This lady's brother was William Heathcote de Lancey, who was Bishop of Central New York when I was a lad at my home, which was in the Bishop's diocese, and I remember in what affection and esteem our family held this earnest, divine and most noble gentleman. And not far away was "Bedford House," pleasant and hospitable, home of Chief Justice Jay, and it was there and in the Judge's delightful library that Cooper gained no end of suggestions and inspirations for his book. The Judge as he sat and smoked his long clay pipe told Cooper the story of a certain spy in the Revolution and of his struggles and escapes and unselfish loyalty, and this gave our first American novelist an idea for his "Harvey Birch." Peddlers with staff in hand and pack on back were frequent visitors at country houses at that time, and it was after a visit of one of these to Cooper's cottage that Harvey Birch's part in the coming story was decided upon. And an old time house below Cooper's place called "the Locusts" appears in the story as the home of the Whartons. Also some of the relics still remain of the "Four Corners" inn where Betty Flanigan lived and where the British had imprisoned the spy with a sentry at the door, and where with the aid of a bonnet and petticoat of Betty's the spy made good his escape in the very face of the enemy, while Betty was asleep snoring, thus deceiving the sentry.

Of the character of "Betty Flanigan" Miss Edgeworth declared "an Irish pen could not have drawn her better."

The representation of "Jeannette Payton," the aristocratic and attractive maiden aunt in the Wharton family, was suggested by the portrait of Mrs. Peter Jay (Mary Duyckinck) and his SarahWharton no less closely follows the portrait of Mrs. Jay's older sister, Sarah Duyckinck, who became Mrs.

Richard Bancker, and these portraits are now owned by a daughter of a nephew of Mrs. Peter Jay.

At the time this pioneer of American fiction came to Westchester county to get a wife he entered a most interesting literary circle consisting of the weird dreamer, Edgar Allen Poe, the sunny-spirited Washington Irving, and his friend and collaborator, James Kirk Paulding; and here also lived and wrote, Tom Paine, Seabury, Wilkins, J. Rodman Drake, James Parton, Gouveneur Morris, Daniel D. Tompkins, John Bigelow, Horace Greeley, James Watson Webb, besides a host of lesser celebrities.

'Twas, indeed, a region full of literary as well as natural attractiveness and charm. In 1827 while Crosby was in New York attending Court he was invited by Mr. Sandford, proprietor of the Lafayette Theatre, to attend the representation of the drama of the "Spy" performed especially for the occasion, and Crosby complied, and the papers having announced the circumstances, the audience was large and it received the old soldier with applause, which he modestly acknowledged from his seat in one of the boxes. On December 15th Crosby wrote a letter to the Journal of Commerce in which he says: "I was much gratified with the performance; it created emotions in reflecting upon the glorious result of our labors during that perilous time, and having been spared to enjoy those blessings for half a century, I can lay down my weary and worn out limbs in peace and happiness, and my most earnest and fervent prayer is and shall be that they may be perpetuated to the latest posterity."

At the close of the war Crosby retired to Southeast and there cultivated a small farm. For all his revolutionary services, wherein he risked his life an innumerable number of times, he received only the trifling pittance of two hundred and fifty dollars. He married twice (his second wife was the widow of Colonel Greene) was the father of four children, two sons and two daughters. For twenty-eight years he was a justice of peace in the town of Southeast and for fourteen years was a deacon in the Presbyterian Church. He had also been deputy sheriff and was respected by everybody. In Cooper's introduction to "The Spy" he speaks of a Mr. ———, then in Congress who was



MARY DUYCKINCK
(Mrs. Peter Jay)



SARAH DUYCKINCK
(Mrs. Richard Bancker)

doubtless his good friend Judge Jay, of Bedford, who had a suitable sum appropriated for *Harvey Birch* who was his agent, "necessarily suppressing the name," and then when at his summons Harvey and he "went in a wood at midnight," the former complimented his companion on his fidelity and adroitness and tendered him the money. The other drew back and declined receiving it. "The country has need of all its means," he said, "as for myself I can work and gain a livelihood in various ways."

"Persuasion was useless for patriotism was uppermost in the heart of this remarkable individual and Mr. ——— departed, having with him the gold he had brought and a deep respect for the man who had so long hazarded his life unrequited for the cause they served in common."

In his novel Cooper gives this incident as occurring between General Washington and *Birch* in New Jersey. Washington said: "You have I trusted more than all; I early saw in you a regard to truth and principle that has never deceived me, and you alone know my secret agents in the city, and on your fidelity not only depend their fortunes but their lives. You are one of the very few that I have employed who have acted faithfully to our cause; and while you have passed as a spy of the enemy have never given intelligence that you were not permitted to divulge. To me and to me only of all the world you seem to have acted with a strong attachment to the liberties of America. It is now my duty to pay you for your services, here are one hundred doubloons, you will remember the poverty of our country and attribute to it the smallness of your pay. It is not much for your services and risks, I acknowledge, but it is all I have to offer; at the end of the campaign it may be in my power to increase it."

And *Harvey Birch* refuses the money saying "No, no, not a dollar of your gold will I touch, poor America has need of it all." And so the great general and faithful patriot spy part. In the last chapter of the book, *Harvey Birch*, thirty-three years later, then an old, yet active man meets Wharton Dunwoodie, the son of the Captain, at Niagara Falls, and taking his place in the fight of Lundy's Lane is killed, the bullet passing through a

tin box and entering his heart. Dunwoodie opens the box and finds in it this paper: "Circumstances of political importance which involve the lives and portions of many have hitherto been kept secret, which this paper now reveals. Harvey Birch has for years been a faithful and unrequited servant of his country. Though man does not, may God reward him for his conduct.

"GEORGE WASHINGTON."



Lady Moody's Grave

"For Conscience Sake"

BY CORNELIA MITCHELL PARSONS

Introduction

THE Town of Gravesend, Long Island, where the scene of our story is laid, named by Gov. Kieft after the Dutch town of Gravensande on the River Maas, Holland, comprised only about ten acres. It was laid out in circuit by Evart Peterson and Harmon Vedder in the name of De Wolf, the merchant of Amsterdam. Under claim of ownership, Gysbert Op Dyck had ordered the town cattle to be driven away, and had a salt kettle erected on the Island of Coney notwithstanding the Magistrate's having 'prayed mandormus'' that the town of Gravesend might be in possession of Coney Island. In 1643, as Evart Peterson and Harmon Vedder brought suit, the Magistrate gave it to Lady Deborah Moody and her descendants for hay and pasture lands. A kind of citadel or large building of logs was erected in the centre of the hamlet where the people took refuge when attacked by Indians.

The dwelling of Lady Deborah Moody was in this enclosure, and the second substantial house, built a year or so later, was not far distant. It was in the second dwelling where we find the Lady of the Manor, Deborah Moody, her son, Henry, and her ward, Frances St. John. Lady Moody was the widow of Sir Henry Moody of Garsden in Wiltshire; he was one of the baronets created by James in 1622. The father of Lady Moody was a member of Parliament in the time of Queen Elizabeth, and her uncle Edward, a member in the reign of James and Charles the First. His son, Sir William, was uncle by marriage to Oliver Cromwell.

One of the regulations of Parliament during these troublous

times was that "No person shall reside beyond a limited time from their own house," that a good example might be set for the poor. Lady Moody was then in London, and the Star Chamber commanded her and others in forty days to return to their country homes. The many restrictions of Church and State were becoming burdensome to Lady Deborah Moody, and she decided she would not be a slave to Crown or Bishop. Having many enemies who were only anxious to injure her reputation, she, for Conscience sake, left her beautiful home in the Motherland and came with a few trusted friends to the New World that she might serve the God of her Fathers in peace and righteousness. Her son, Sir Henry, after his father's death, having succeeded to the baronetcy, did not sail with his widowed mother but followed a short time later. The only daughter remained in England, even though the family estate at Garsden was sold. Nothing daunted, Lady Moody landed in Massachusetts Bay Colony. In 1640, she was granted fourteen acres to be settled by her as a plantation. In 1641 she bought from Sir John Humphreys "his farm." She had a small farm at Salem, next to that of Hugh Peters. She had hardly settled there, when in the summer of 1643, being interested in the doctrines of her old friends, Roger Williams and the Anabaptists, she said farewell to tyrannical New England, and taking passage with her friends, Rev. Mr. Walton of Marblehead, Mr. and Mrs. King, and the wife of John Tilden, all of whom had attended the meetings at the house of Mrs. Anne Hutchinson, came to New Amsterdam and settled in Gravesend, Long Island. Governor Winthrop writes:

"Rev. Mr. Walton of Marblehead is for Long Island, shortly there to set down with my Lady Moody and from under Civil and Church; watch among ye Dutch."

In 1641, many from Lynn were disaffected and followed to our Long Island shores, seeking the protection of the Dutch where the States General and Governor Kieft promised liberty of Conscience.

Lady Deborah Moody was a woman of noble instincts; one who in those troublous times stood fearless for religious freedom. She was the friend of Peter Stuyvesant, and until the time of her death ever held the love of her colonists.

CHAPTER I

The Home of Lady Deborah Moody. An Indian Outbreak

"The lilies of the summer field spin not
Through golden hours of ease,
Yet each its grateful incense yields,
In fragrant ministries."

—Rev. James B. Kenyon.

There were rows of nodding hollyhocks, pink and purple, which formed a background for the modest sweet-Williams, candy-tuft, bachelors-buttons and mignonette, lining the pathway on either side, but screened by the high box. A very wealth of color greeted the eye; perfume like incense was wafted on the summer breeze. At the end of the path rose before one a broad porch of the half timbered house of Lady Deborah Moody. It stood in the north-east corner of the stockade, directly opposite what was then called Johnson's lane, and her bowerie was across the street in the Village of Gravesend, Lond Island. The high, peaked roof and casement windows opening outward; the tall brick chimney near the back, covered with ivy from the Mother Country, made a picture refreshing to the eye on this August day. A few forest giants stood in the background, as if keeping guard, and beyond in the dim distance, through a clearing, one caught glimpses of the sea and Coney Island, with its thickly wooded banks, long stretches of sand, and blue waters; all being outlined by gray sky and white, fleecy clouds.

The half door stood invitingly open; the brass knocker, a griffin with claws, seemed to smile a grim welcome, as it held the brass ring in its mouth. Opening from the wide cool hall was a low-ceiled library with open rafters and wainscoted walls; bookcases on either side were filled with rare volumes bound in sheepskin. A high mantle held quaint vases and stuffed birds. Underneath in the broad fireplace with its blue tiles representing Scripture scenes, were brass andirons and huge logs, a goose wing as a brush hung with the shovel and tongs. As it was summertime, branches of asparagus adorned the hearth. Several high-backed, rush-bottomed chairs were drawn up under the two

casement windows, whose tiny panes were spattered from the lately fallen rains.

The Mistress of the Manor, Lady Deborah Moody, sat before a desk of Flemish oak, a substantial piece of furniture. Her eyes were large and dark, and her strong but sweet face framed by the snow-white hair on which a cap of delicate lace rested. Her gown open at the neck showed the comely lines of the fine throat and figure, and though no longer young, she sat erect in her chair. The narrow candle shelves on which tallow dips in high silver candle sticks rested burned dimly, the tallow forming strange figures as it gutted the sides. There were several drawers below with swinging handles; in the middle was a small cupboard from which opened a tiny door, with rows of three little drawers on either side. On the desk stood the ink receptacle and a quaint Delft shaker that held the sand used for blotting. There were quills of all sizes ready for use. This piece of furniture with its wonderful carvings in high state of polish shone like a mirror, and was evidently a cherished reminder of the Old World now so far away. Above the desk hung a portrait of a man in middle life, dressed in the garb of a gentleman of the Seventeenth Century. The features were regular, and the eyes though stern, seemed speaking. There were other portraits in the room, but this one stood out in relief. A ray of sunlight, forcing its way through the casement, fell on his face. For an instant, the eyes seemed to soften. It was not a bad face, but one that had seen trouble. The Lady Moody raised her eyes from a closely written parchment, and laying aside the quill she had been using, uttered a deep sigh. Tears filled her eyes as she glanced at the portrait before her, and she turned her face away toward the window.

Outside the hollyhocks bent under their weight of raindrops, bowing their heads in the breeze as if they, too, were downhearted, for their blossoms were crushed and broken.

"Poor things," she murmured, "the whole world is indeed a sorry place; yet even after the storm, the sun shineth."

Hearing footsteps approaching, she hastily placed her hand over the parchment.

"Ah, Henry, is that you?"

This was said to a fair-haired man, with dark brown eyes and ruddy complexion. He entered with a gun in his hand which he had evidently been cleaning.

"How sweet the air is after the storm, my son."

"Gad, Mother, its cooling after the hot, sultry morning, but down in the meadows, the salt hay is spoilt, methinks, by the rain. I could get no one to fetch it in. It has been cut for days. Ah me, what a country this is; plenty of work and few to do it. One is either freezing in winter or melting in summer, one thing or the other, no half doings here. Give me old England, with its intolerance, its rain and humid atmosphere; I get tired to death of sunshine."

"True, Henry, but the sunshine is better for gout, than our everlasting rains at home."

"You speak still of it as home, my Mother! One would think you would be weaned by now."

"I do not regret the move, my son, for here among the Dutch, we can have liberty of conscience and worship as we will. I must try to forget the treatment I received in New England plantations. Ah me, religion not expressed is now treason. To speak is a crime; to be silent is the same. One knoweth not what the future hath in store. After the Baronet, your father, died I could not buckle down to threats and tyranny and the new world offered much."

"Gad, I can never forget, my mother, that those who suffered at home from religious persecution, come over here and do the persecuting act. Poor old Governor Dudley wrote, 'Let men of God in Court and Churches watch, or such as do a toleration hatch.' Hark, heard you a noise, Mother?"

"No, Henry, I heard nothing."

"You have no nerve nowadays, it seemeth to me, Mother."

"No, I passed through too many horrors and worries in England and Lynn. I can never forget the bitter past. The Dunches were never cowards; they were for liberty of Church and State."

"Gad, you did but jump from the frying-pan into the fire, as far as New England plantations are concerned. Hey, Mother, if

you must follow the worthy Dr. Roger Williams and the Anabaptists, we must continue to sizzle in the pan."

"No one shall force me to do anything which I feel to be wrong, my son. If I doubt honest common sense and believe that any have become through baptism a part of the Church, that it is no ordinance of the Lord, then no one can make me believe in it, not if I burn for it."

"Hey-day, my noble Mother, one cannot be too careful about expressions; danger lurks on every hand."

"But Henry, where is Frances?"

"I know not, my Mother, but an hour ago, just before the thunder storm, I saw her pass out of the house, her basket on her arm. It appeared to me as if she were planning a call on the Holmes family, taking them a bit of jelly. Two of the children are ill of the Marsh fever, but I asked Frances no question, as she hates to be pestered, and I, for one, do not blame her. She is her own mistress, even though a ward."

"Yes, my son, but I like not her walking on the lonely high roads by herself. These are dangerous times; the country is unsettled. She is young and beautiful, but venturesome. I would have Dawkins accompany her when she passes outside the stockade. One must of a truth be careful. The red-skins have departed for the present but some of the strolling Dutch are not to be trusted. I feel troubled about the maid. Go you, Henry, and see what you can, as to her whereabouts."

"Truly, Mother, I am your humble servant, and, (bowing low) depart to do your pleasure. I would tell you a secret, Mother. Frances hath found favor in my eyes. I love her as a—well, a sister."

Lady Moody glanced into the handsome face of her son and her eyes filled with tears. "That is of a truth right, my son. Keep on loving her; you know the wish which lieth so near my heart."

"Mother, should the red-skins ever attack you here, fly to the secret cupboard, but never fall a prey into their bloody talons."

"But I have a weapon here which never leaveth me; I laid it aside while writing." Lady Moody picked up a curiously shaped dagger, which she carefully drew from its leathern case. "This

is my protector, when my boy is absent. It hath followed me to the New World; it will follow me to my grave. If I die, Henry, bury it with me. It was given me by one dear to me in my girlhood, before I ever saw your father, the Baronet. Do not forget, for it is sacred, and holdeth a secret. That and the picture, there, are sacred. Remember." Picking up the dagger, she fingered it tenderly. "Tut, Henry, we will not turn cowards. Hark, there is that noise again, near the enclosure."

"I will run and see what causeth the trouble."

"Call Daniel King and James Hubbard, if you have need of any help."

Clutching his gun more tightly, Sir Henry disappeared through the doorway. Lady Moody rose quickly and followed her son, standing in the half open door, as he hurried toward one of the stockade gates. Shouts and piercing screams were heard; then a calm, like that before a storm. A horrible war whoop rent the air and from all sides arose the cry, "The Indians, the Indians are upon us; close the gates." The sound of firing and a cloud of smoke hid all from view. How long she stood there she never knew. She saw a tall thin figure on horseback, trying to force his way through the dense mass of humanity. A cry of terror escaped her; she covered her face with her hands, but only for an instant, and peering forward she saw the same rider approaching the house.

"By my faith, it is the Reverend Mr. Roger Williams," she said.

"Yes, of a truth, Lady Deborah, all danger is now over."

Just then one of the servants rushed forward and helped the much bespattered gentleman to alight.

"That was a narrow escape for you, Dr. Williams," she said.

"I had a few words with the chieftain. He recognized me at once; I had in the past saved his life. The red-skins were on my track but I whipped up my good beast, and just squeezed inside the stockade as the gates closed."

"Were there many, think you, or may we not judge from the noise and confusion of voices?"

"There were a goodly number, but you have no longer cause to fear, my Lady. Sir Henry as I passed through was doing his duty valiantly, and John Tilden is a brave man."

"Forty of the townspeople have promised to protect us."

"Yes, I saw the women and children driven in like sheep before me. The dust was so thick that I thought my eyesight would suffer."

"I thank God, you have come at this critical time."

"Yes, noble Lady, I have travelled swiftly, as the message was brought to my ears at daybreak. The Governor feared an outbreak, and asked if I would go to Gravesend as peacemaker. I had only arrived last night from Providence Plantation, making ready for my departure for the Mother Country. The whole cause of trouble came because an Indian, when drunk, had killed a Dutchman, and the Indians on the Island had united with those on the Mainland. The Dutch had taken some of their corn from them and they retaliated by burning and destroying their homes. As I dodged the arrows I had only time to see the Chief for a moment. He promises to keep the peace. So for the present you will have no more trouble."

"I have heard of Indian promises before this, but it may be as you say. 'Our ways have not been those of pleasantness nor our paths of peace.' We do but reap the harvest we have sown."

"Quite true, Lady Deborah. How like you this new home in the wilderness?"

"We are nearly settled, but have not yet received our patent, promised by His Honor, Gov. Keift. The Dutch are a slow people."

"Yes, truly, slow, but sure."

"My application to sail from Boston was denied by Massachusetts Bay authorities, so I have come to Manhattan Island that I may take ship from there. Our friends, Mistress Anne Hutchinson and her family, have come to Ann Hook, as perchance you know, there to found a home in the wilderness. Her poor husband was in all my troubles a kind friend to me. He sat at the bar when I was tried for heretical teachings. May the good Lord protect his family. He has gone where persecutions may not follow him."

"And Mary Dyer, what may have become of her?"

"She, too, hath been banished from the Colony and though I have done what I could, death stares her in the face."

Tears filled the eyes of Lady Moody. "Will these persecutions never cease? Must Quaker, Anabaptist, and Jesuit fare alike? Ah, Dr. Williams, even though in grave danger of our lives here in the Dutch settlements, we can at least worship as the Spirit dictates."

"Capt. Underhill tried to take me prisoner, and forced me to board the boat, but three men and eight women protected me. For a time I was hidden from the view of mine enemies. The Lord sustained me. John Winthrop, our good Governor, hath been a bitter enemy of Mistress Anne Hutchinson, but ever a friend to me. Nevertheless I wish not to have him know of my sailing from New Amsterdam."

"You wish not John Winthrop to know of your being here? Good Dr. Williams, tonight he may arrive as my guest."

"May Heaven protect me. Have you no prophets' chamber where I may be concealed for a time? Dr. Mather said of me that 'I have a wind-mill in my head.' Mayhap I have; the good Lord only knows. And may I be found blown in the right direction, when I am turning round, is my constant prayer. But I have greetings for you, Lady Moody, from many old friends. On the morrow we can talk over our secret."

Lady Moody placed her finger on her lips. "When you reach Old England's shores be wary."

After Roger Williams had partaken of some substantial refreshments, Lady Deborah hurried him to the foot of a ladder, saying, "Let us not play with danger; follow me, Reverend Sir, to the loft." While speaking she placed her foot on the lower round. "This, Mr. Williams, we pull up at night for protection."

Roger Williams followed his stately hostess, as she easily, without bending her head, made her way up to the loft, with its two rooms under the sloping roof. Opening into one of them was a dark closet. A few books bound in sheepskin were arranged on a shelf. Lady Moody deftly removed one and a bit of cord came into view. This she pulled slightly, raising a large board. Now, Dr. Williams, there is not room for both; you must be humble and crawl below into the cupboard."

The worthy Divine did as he was bidden.

"See, there is the chair, I promised, and here is a candle and flint."

"The Word of God will give me reading matter, being a lamp unto my feet, and a light unto my path. Meditations are sweet to my soul after the trouble, anxiety and horrors I have undergone in dark New England."

"Later will I return with some refreshments. Here is a jug of water for your use. The place is well ventilated, so fear not for air to breathe."

"Faith, noble lady, I find the secret place much to my liking, and shall rest content here."

"I hear voices and must descend. Did they not see you as you entered the gates?"

"No, I doubt the sharpest eyes in that awful dust could possibly have recognized the features of Roger Williams; it was well nigh impossible. My long cloak concealed me, and the drooping brim of my hat hid my features from view."

"None need know aught of your presence, Sir. It maketh the tear drops to fill my eyes, that you must here remain in close quarters, such a warm, sultry day. For the present, fare you well, Sir."

The words had no sooner fallen from her lips when the eyes of Roger Williams saw the board adjusted in its place and he scarcely heard the lady's tread, as she stealthily made her way down the ladder. Falling on his knees, the strong man prayed.

"O Lord, thou deliverer of Israel, I thank thee for thy protection and love. I know that underneath me are the everlasting arms which will hold me safely, whether I journey by sea or by land, for both are thine. Protect with thy saving power this household, especially the one of tender years; thou knowest all. Protect and be merciful." Then the softly modulated voice sank to a whisper; the lips moved. Roger Williams, like Moses of old, talked with God. Earth with its sorrows and trials slipped away, and a light, not of this world, illuminated his features.

Lady Moody was only just in time to meet the many neighbors who had crowded into the castle as they called it, to thank her for her protection. They had been concealed in the wood house that adjoined the kitchen, and begged that she would permit them to remain over night, as it seemed hardly safe to venture back to their homes. The women were unnerved and white; their little ones were hiding tear-stained faces in the folds of their Moth-

ers' skirts. Now and then the wailing of a babe would break the stillness.

"These are indeed troublous times, but I rejoice that we have all escaped slavery or worse than death. Sir Henry reached the gates just in time? But here he comes to speak for himself."

"When the red men come again we may have to call upon the Dutch for assistance," he said. Lady Moody had given numerous directions, and soon the serving maids had drawn the three large oaken tables together, covered them with snowy homespun, placing great platters of fowl and beef at either end. The table fairly groaned under its weight of good things. After grace had been said, all took their places, and soon were earnestly at work partaking of the sumptuous repast.

"Mother, I think our scalps are safe for the time at least. The red men remind me of naught else but hornets. They come in swarms and settle down to draw each drop of blood—a devilish lot."

"Yet," remarked Mrs. Hubbard, as if catching her breath, "we must thank Almighty God that we are safe; but where is Mistress Frances?"

All rose to their feet, and Sir Henry jumped for his gun, which hung near where he was sitting.

"I thought," he gasped, "she had returned with the others when the attack was made. God help us."

Lady Moody turned pale. "Henry, saw you not the maid?"

"Nay, my Mother, I have neither seen nor heard aught of her since she passed with her basket on her arm down the garden path. It was, as I have before told you, just an hour before the storm came up."

"Some one said she had returned, and so my heart was at rest. The Lord reigneth, his power is over all." She buried her proud face in her hands and left the room. Henry followed, trying to reassure her.

"I will take some of the men with me, Mother, and we will leave no stone unturned."

Suiting the action to the words, followed by six of the armed men, they disappeared. Voices at the table were hushed; fear was written on each brow.

CHAPTER TWO

The Disappearance of Frances

"The leaves are motionless; the song birds mute.
The very air seems somulent and sick.
The spreading branches with o'erripened fruit,
Show in the sunshine all their clusters thick;
While in the quiet a mellow apple falls
With a dull sound within the orchard walls."

—James Barron Hope.

It looked and felt like a storm, but Mistress Frances, the ward and adopted daughter of Lady Deborah Moody, had made up her mind to visit the two little Holmes girls, who had been attacked by the marsh fever the evening before. The weather had been unusually warm for the season, and the good Dutch Doctor from Manhattan Island had used the word "unhealthy," applied to Gravesend and its people; had urged brimstone and molasses and a cooling drink. Frances thus, with a basket on her arm, had hurried down the fragrant flower bordered path, and made her way to the dusty high road, on which the Holmes' small thatched cottage stood. The strong salt air from the marshes blew into her face, making the pink and white cheeks quite rosy, and a pair of blue eyes, with long, black lashes looked dreamily out at the dusty road as it stretched before her like a ribbon. Her eyes seemed to partake of the color of her hood, which had fallen back, being held fast by a broad ribbon of the same color. She was intent on watching a flock of sea gulls, wheeling above her head, for these had ventured far inland as if dreading the coming storm, and she wondered if there were time for her to make the visit. Frances heard nothing of the stealthy footsteps which followed in the distance, the figure now hiding behind a rock, now advancing more boldly, then disappearing within the thick tangle of blackberry bushes which fringed the roadway. She was thinking of her errand of mercy, of the feverish little mouths, and the delight they would experience tasting the current jelly. Frances was ever an Angel of Mercy, and far and wide in the small hamlet of Gravesend the people looked for her coming when either joy or sorrow knocked at their doors. Her strength of character, her beauty and grace, the sweet unselfishness for all made her ever a welcome guest.

The shadow that followed her now took form. It was an Indian maiden, dressed in her tunic of leather, and short skirt, adorned with feathers, and colored beads aranged in fanciful designs. Her raven-black hair hung unconfined over her shoulders and a coronet of red and yellow feathers made a framework for her face. Her black eyes were fixed upon the graceful, girlish figure before her. She seemed to dart through the air, so quickly did her small mocassined feet pass over the rough road. Until, touching the silk scarf worn by Mistress Frances, she forced her to turn suddenly. A scream of terror came from her lips—"What is it? What want you, girl?"

"Lily-Pale-Face, Minatonka come to warn of danger. Minatonka's father, great brave, kill pale-face. Storm come, rain, then Indian kill. Minatonka love Lily-Pale-Face; I save her. Time short. Clouds roll back thunder. It comes—the storm. Lily-Pale-Face safe with Minatonka. Minatonka hide in cave. Come quick."

Mistress Frances, with a look of terror on her face, saw that the Indian maid was in earnest. She recognized her as one whom she had once saved; and Minatonka, the daughter of the Chieftain, had never forgotten and had learned her lesson of love, taught her by the great, white Spirit. The running brooks, the flowers, the sunshine and the stalwart trees had been her only teachers; Minatonka needed none other. When she met this maiden of the pale-face tribe, love had conquered prejudice of race. She loved Lily-Pale-Face.

"Come." She placed her finger on her lips as if to enjoin silence. "Follow; no time. We must wind, even as the snake, in and out."

As the maid spoke, a drop of rain fell on Frances' face, then another and another. The maid, catching her skirt, dragged her after her, taking a path under the chestnut trees that grew so thickly back from the road. The path grew narrower, and at last was lost in a tangle of shrubs and vines.

"Here Lily-Pale-Face safe; storm comes."

By this time, terrible peals of thunder were heard and vivid lightning flashed into the faces of both, lighting up the gloom of the forest.

"Follow; no time. Lily-Pale-Face wet; storm here."

The terrified Frances followed her captor, drawn on by a strange something. Minatonka pushed aside the briars and long grass disclosing a great rock. This lay at the edge of a sandy beach, and the opening was fronting the broad expanse of water. Coney Island lay before their eyes.

"Lily-Pale-Face, crawl in there." And setting the fashion she advanced on hands and knees into the cave, for such it was. Frances was out of breath and wet from the storm. The ashes from a recent fire were piled up in the centre of the cave, on which a stick of wood was smouldering. Minatonka added some sea-weed, which she discovered in the corner and both were repaid by a cheerful blaze, which lighted up the darkest recesses. On the opposite side was a heap of dried leaves, that had evidently been used quite lately as a bed. A large shelf and a Dutch flask lay near the improvised couch, and way in the back, Frances saw a quantity of dried corn hanging from the rocks; also a pile of drift-wood and chips.

"Why have you brought me here, Minatonka?" she gasped.

"Minatonka save, save. Think time late. Ran many leagues. Not tell Indians. Come alone. Storm saved you. Indian kill Minatonka if know she save Lily-Pale-Face. Cave here; Indians not know. Storm gone, I cover stone; grasses, sea-weed I put before. Minatonka watch Lily-Pale-Face."

For the first time Frances seemed to see an empty flask. "Another pale-face here before, Minatonka, see, fire-water." Creeping around, she saw in the sand, written in all probability by a thick stick, letters which formed the word "remember." "Remember, how strange," Frances murmured. She examined the cave with great care. The storm increased in violence, but after two hours the sun shone, and one ray made its way into the dark recesses. Minatonka crawled to the entrance, looking carefully in all directions.

"Sick man better now, go away, say come back soon. Fear Indians kill, and Dutch. Hide here. Minatonka give medicine, herbs and food to pale-face. Bring him here in canoe. Pale-face good to Minatonka."

Frances saw that her companion was speaking the truth.

What could the word "remember" be. Who was the man who had so lately visited the cave?

The air was sweet and very salt. How refreshing it was to Frances as it blew upon her hot cheeks and forehead. Only the music of the waves broke the stillness. Suddenly the horrible war-whoop of the Indians fell upon her ears. Frances turned pale.

"You will save me, you are my friend!"

"Lily-Pale-Face, I save, even if they kill. No fear, pale-face safe, safe. Dutch bad, steal corn, Indians kill, kill. I no love kill. Minatonka save."

Frances pictured the horrible things that were happening. Lady Deborah Moody alone, perhaps; Sir Henry fighting and falling. She buried her face in her hands and prayed. She could not shut out that awful picture.

"I thank Minatonka," she said, turning to the Indian maid,—"but my Mother, pale-face Lady Moody, will die."

Tears filled her eyes and ran down her cheeks. Minatonka was kissing her hands and weeping with her, while she murmured,

"I save all, if could; I save Lily-Pale-Face. Great, white Spirit protect, great, white Spirit save."

Minatonka then crawled from the entrance to the cave and disappeared. All was still in the distance. In half an hour she returned, bringing some apples, which she placed before her friend.

"Eat, eat," she said, "all safe now; fight over. The good Brave Williams come, speak to Chief; Indian love Brave Williams, no burn, gates shut, all go away, go far away; not come back now. Lily-Pale-Face safe, she return; she go back to wigwam. White-face show Minatonka cave; Minatonka not tell."

She pointed to the flask. "White-face gone, show Minatonka the way; secret. Follow, follow."

Frances did as she was bidden, crawling to the upper part of the cave; both were soon able to stand erect as they emerged into what seemed to be a tunnel, lined with stones. They walked for some distance, about two miles; coming suddenly to a halt, as the passage was filled with underbrush.

"Follow, Lily-Pale-Face." The Indian girl felt among the

stones and discovered steps, one above another. Reaching the top, she pushed something back; daylight appeared, showing to Frances, the garden of Lady Moody's house. It lay just before her. A perfume of the flowers was wafted to her on the fresh breeze. "After the storm, the calm, thank God," she said.

They were screened from the house by a group of trees and underbrush. Minatonka looked up into her friend's face, and smiled.

"Lily-White-Face safe, wigwam. Keep treaty; Lily-White-Face need me, I come again."

She took from her arm a curious bracelet, composed of gold and blue beads, and clasped it upon that of Frances.

"When in danger send; I come."

In a moment she disappeared in a jagged hole in the ground, and the large stone had been pulled into place; how, Frances could not see. It moved as if on a hinge. She stood for a moment like one in a dream, and hastened her footsteps as she approached the low door. All was quiet. At her desk sat Lady Deborah Moody; she was writing, but tears poured from her eyes, and fell on the closely written parchment. No longer able to restrain herself, Frances ran forward and fell at Lady Deborah's feet, weeping for very joy. In a few moments all was explained, and Lady Moody, happiness written on her face, hastened out to tell the joyful news that the dear child was safe; all, all was well. Half an hour before, the disappointed, anxious men had returned, unsuccessful in their search. The household slept lightly that night, but no harm came to the little hamlet at Gravesend.

History of the Mormon Church

By Brigham H. Roberts, Assistant Historian of the Church.

CHAPTER CXI

The Judicial Crusade of 1870-2—The Englebrecht Case—Malicious Prosecutions—McKean Reversed—Triumph of Brigham Young

WE have now to deal with the judicial crusade in Utah of which Judge James B. McKean was head and front, through four troubled years of Utah's history, 1870-1875.

Judge McKean was appointed chief justice of the Utah supreme court in July, 1870; and arrived in Salt Lake City on the 30th of August. He was assigned to the 3rd judicial district which included, it will be remembered, Salt Lake City. Three days before his arrival the liquor establishment of Paul Englebrecht, Christian Rehemke, and Frederick Lutz had been entered by the city police and the entire stock of liquors of the value of about $22,000 had been destroyed. As this case was finally disposed of by the U. S. supreme court, and is the one which overthrew the fanatical judicial procedure of Judge McKean's reign in Utah, it is necessary to set it forth somewhat in detail. And also it exhibits how aggravatingly the local authority was contemptuously defied, by those who thought they could find special protection under the rulings of the federal courts.

The Englebrecht establishment was supposed to be a wholesale liquor concern; and under the city ordinance it was provided that a wholesale liquor license should not authorize any person to sell either spirituous or vinous, or fermented liquors in less quantity than ten gallons, or in original packages; and

bottled liquors or wines only in original packages as imported, and in no case to be drunk on the premises of parties so licensed.[1] In disregard of this provision the Englebrecht concern sold at retail as well as wholesale, for which Englebrecht was arrested and fined three different times. Notwithstanding this,[2] when he applied for the renewal of his wholesale license, about a month before the concern's stock was destroyed, the application was favorably acted upon. The 8th section of the city ordinance regulating the liquor traffic provided that the city council should determine the time for which the license should be given, the amount to be paid therefor, and should require bonds with security and determine the amount thereof for the due observance of the ordinance, etc.[3] But after the city council signified its willingness to grant the license, Engelbrecht refused to sign the bond required, which, of course, left him without a license, but notwithstanding he had no license, *he continued to sell liquors both wholesale and retail* in defiance of the city ordinance; for which, during the month of August Engelbrecht was several times arrested and on three occasions fined, but in each case he took an appeal, denying the city's jurisdiction. Concerning these appeals no decision had been reached, as the district court had not been in session since they had been made. Section 7 of the city ordinance in relation to the liquor traffic provided that if any person having reasonable cause to believe that any house or place is established and kept for the purpose of selling or otherwise disposing of liquors, without a license from the city, and will make oath of the same, describing the place, and if upon investigation it shall so appear, the mayor or alderman before whom such complaint has been made may issue his warrant, directed to the city marshal, or any of his deputies, commanding him to enter said house or place and demolish all things found therein made use of in the sale of liquors, etc.; and to arrest the person or persons owning, keeping or conducting said house or place, and bring them before the court; where, on conviction, the offender was

1. See City Ordinance in full *Deseret News*—Weekly—of Aug. 31st, 1870, Sec. 2.

2. Under the city ordinance violation of the ordinance subjected the offender to both fine "and forfeiture of license" (Ibid., Sec. 9. Hence the "notwithstanding this" clause above.

3. *Ibid.*, Sec. 8.

subject to fine, or imprisonment or both. The above course was strictly followed in the procedure against Engelbrecht. A person made the required oath before alderman Jeter Clinton. The order was issued to the city marshal, Mr. J. D. T. McAllister, who with the chief of police and a force of eighteen regular and special officers went to the Engelbrecht establishment and "quietly but sternly" proceeded with their duty. The whole stock of liquors was destroyed as before stated.[4]

For this action Engelbrecht entered a civil suit against the officers for the recovery of a three-fold value of the property destroyed, under a territorial statute providing for treble damages when property was unlawfully, wilfully, and maliciously destroyed. During the progress of the case Judge McKean in ruling upon a demur of the plaintiffs to the answer of the defendants that their action in destroying the liquors of the Engelbrecht concern was not unlawful or wilful or malicious, but done in pursuance of legal authority, overruled that demur, so that if the defendants could establish absence of wilful malice it would reduce its offense to mere trespass, in which case the defendants could only be mulcted to the amount of actual damages, instead of treble damages. But when the trial jury, from which every Mormon had been excluded either for cause or on peremptory challenge,[5] brought in its verdict, it was for treble damages amounting to $59,063.25. On appealing the case to the Territorial supreme court the judgment of the trial court was affirmed. An appeal was taken to the United States court on a writ of error, the defendants challenging the array of the jury in the third judicial district of the Territory. "The controlling question raised by the challenge to the array," as the supreme court in its decision subsequently said, "is, whether the law of the Territorial legislature, prescribing the mode of obtaining panels of grand and petit jurors, is obligatory upon the district courts of the Territory."[6]

The record of the case shows that the court originally directed a venire to be issued in conformity with this Territorial law, and

4. The account of the procedure in detail in *Deseret News*—Weekly—of Aug. 30, 1870. 354.
5. See *Deseret News*—Weekly—of Nov. 9th, 1870, p. 465.
6. Clinton vs. Engelbrecht, 13 Wallace, p. 434.

that a venire was issued accordingly, but not served or returned. The record also shows that under an order subsequently made an open venire was issued to the federal marshal, which was served and returned with a panel of eighteen petit jurors annexed. These jurors were summoned from the body of the county at the discretion of the U. S. Marshal.

It is only proper to say that chief justice McKean on his arrival found that his associate justices Strickland and Hawley, who preceded him into the Territory by nearly a year, had already decided that the probate courts had no jurisdiction in criminal cases, and had set aside as invalid the territorial law respecting the selection of grand juries; and Mr. Wilson, preceding Judge McKean in the office of chief justice, about the same time, had decided in the case of Orr vs. McAllister, that Mr. Orr the United States marshal was the proper executive officer of the district court, and that McAllister, who was territorial Marshal, was not.[8] It was not Judge McKean, then, who took the initiative in these several steps[9] that did such violence to the laws of the territory, and the principles of local self-government; his part was to acquiesce in them, to confirm and emphasize them, and to proceed under them until suddenly and effectively halted in his mad, judicial career.

In the September term—1870—of Judge McKean's court, he rendered an important ruling that indicated his policy with reference to the naturalization of alien Mormons in the cases of John C. Sandberg, a Swede, and William Horsley an Englishman. In the pursuance of his inquiries the Judge asked whether or not they believed the act of congress of 1862, relating to "bigamy," to be binding upon them. Sandberg in substance replied that he regarded it as right under the law of God for a man to have more than one wife at the same time; Horsley refused to answer the question. Neither of them had more than one wife, but the Judge refused them naturalization, and rendered the

8. Baskin's reminiscences, the Englebrecht case, ch. IV. Judge Wilson, who was not unfriendly to the Mormon people, as shown in preceding chapters, declared to delegate Hooper in Washington that he had rendered this decision according to his best judgment, and had furnished the pro-Mormon lawyers "Bros. Stout and Snow" all his reasons for his rulings, that they might have every facility for carrying it up on appeal. See Hooper's Letter to Snow date of June 5th, 1870. Hist. Brigham Young Ms., 1870, Vol. 1, p. 980.

9. See History of the Bench and Bar of Utah—1913—pp. 28-29.

aforesaid ruling in the case.[10] It may be said in passing that there was no law cited by the Judge which justified his specific inquiry as to the practically inoperative law of 1862 about "bigamy;" and there was nothing in the laws governing admission to citizenship that required "the applicant to be well disposed to any special law of congress, though such law may be supreme." "If it did," said a prominent lawyer of the period, "*it would require of him that* which is not required of any natural-born citizen. Every natural-born citizen, though he has not the right to disobey a law to the principles of which he feels opposed, has an inalienable right, which cannot be bought nor sold, nor surrendered, to oppose a principle in which he does not concur, provided that opposition does not amount to a resistance of the law. The very basis of civil liberty permits all citizens, native or naturalized, to have a voice and to cause their opinions, honestly entertained, to be heard in the councils, territorial, state, or national, and seek to have modified or repealed, any law to which they are opposed."[11] It would seem anomalous to require the surrender in an alien, in order to acquire citizenship, of rights which are conceded to the native born citizen, and which would inevitably be the rights of the alien as soon as admitted to citizenship.

In January, 1871, three applications were made by men who upon inquiry of the court stated that they were polygamists, but that they had entered into that relation previous to the enactment of the special law of congress against bigamy in 1862. Whereupon his honor in a ruling made upon their case declared that the common law was brought by the Mormon pioneers to Salt Lake valley when they first entered it; that the "common law" held polygamy as a crime; and therefore, the applicants for citizenship could not plead that since their plural marriages took place before the law of congress of 1862 that they were not law-breakers; and being law-breakers, under this rul-

10. "Sandberg," said the Judge, "satisfied the court that he is not, and Horsley failed to satisfy the court that he is, a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same. The duty of the court is *plain*. These applications for naturalization must be rejected." The decision in full is found in *Deseret News*—Weekly—for Oct. 19th, 1870, p. 436.

11. Review of Judge McKean's decision in the Sandberg-Horsly cases, by Judge Z. Snow, *Deseret News*—Weekly—of Oct. 26th, 1870.

ing of the Judge, "these applications for naturalization must be denied."[12] At the same time there is no principle or practice better established by authorities, I am assured, than "that there is no such thing as a common law criminal offense under the laws of the United States." Under the practices of the federal courts of Utah, in this period, in the matter of naturalizing aliens, "no 'Mormon' need apply," might as well have been posted over the court entrance, unless he was willing to deny his religious faith.

In August, 1871, control of the penitentiary, under an enactment of congress, passed Jan. 10th, 1871, passed into the hands of the United States marshal, although it had been built, in part, by Territorial funds and had always, up to that time, been under the control of the Territorial marshal. U. S. Marshal Patrick would make only verbal demands for the control of the institution to pass into his keeping, and the Territorial warden, Mr. A. P. Rockwood, protested in writing to the surrender, both of the institution and of the prisoners, who were engaged in labor, and some of whom were kept in the city prison. For resisting the verbal orders of the marshal,—acting under direction of Governor Woods—and insisting upon some written order from a court of jurisdiction in relation to one prisoner—Kilfoyle—serving a sentence for manslaughter and held at the city prison —suit was brought against city Marshal J. D. T. McAllister and Warden A. P. Rockwood for resisting an officer.

At the hearing before Judge Hawley the warden and city marshal were bound over to answer to the grand jury at the next term of the third judicial district. In the course of this hearing Acting U. S. Attorney Baskin interrupted to say that *his way* in taking possession of the prisoner Kilfoyle would have been to put the guns of Camp Douglass upon the city, blow down the city hall and jail, and force possession of the prisoner with bayonets.[13] Such was the spirit of the times. Indeed there

12. The ruling in full will be found in *Deseret News*—Weekly—of March 8th, 1871.

13. The incident, as reflecting the spirit of the times, is worthy of a more detailed presentation. Mr. Thomas Fitch was representing the defendants before the court and in the course of his defense, speaking of Warden Rockwood, he said: "All the defendant asked, as appears from the testimony, was an order of court. In his written protest, he says, 'I will surrender this convict on the order of some court

seemed to be a settled determination to appeal to and use the military power in civil affairs on the slightest provocation, or even without justification at all. Such was the case in the employment of a military cavalry *posse* of regular troops in a midnight attempt at Provo and Springville on the nights, respectively, of 10th and 12th of September, to arrest parties indicted by the grand jury for murder. There was no justification for the employment of the military *posse*, there was no likelihood of resistance of the civil authorities, it was a wanton display of excessive power on the part of the U. S. Marshal. It greatly alarmed the people of the two towns, and awakened widespread resentment among the people of the Territory, to such an unwarranted employment of military force.[14]

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of competent jurisdiction.' He deems himself invested by the legislature of the Territory with certain duties and responsibilities; he has given bonds for the faithful performance of those duties and the discharge of those responsibilities. It is but little to ask, when he is called upon to divest himself of these responsibilities, and to cease to perform those duties, that he should do it on some demand more formal and some decision more binding than the construction of an act of Congress made by the United States marshal. * * * However, we have perhaps cause to congratulate ourselves that the guns of the Fort have not been turned on the city, and the City Hall surrounded with cavalry, infantry and artillery, and the warden compelled at the point of the bayonet to surrender his prisoner."

Mr. Baskin—"That would have been my way to do it."

Mr. Fitch—"I presume that Mr. Baskin would have knocked the City Hall and city jail down?"

Mr. Baskin—"I would that!"

Mr. Fitch—"The acting law officer of the United States informs us that he would have 'let loose the dogs of war' had his advice been followed and his wishes consulted. And why were they not? Where was all the power which with all the pomp and parade of war once interfered to prevent by arms a peaceful parade episode of the previous July? Was it asleep? ashamed? or afraid?"

Governor Woods (who was seated on the right hand of Judge Hawley)—"Neither, my Lord!"

Mr. Fitch—"I am assured by the Executive of the Territory of Utah, who honors us with his audience and encourages the prosecution with approving smiles, that my surmises are incorrect. The Executive of the Territory, who perhaps agrees with the opinion once expressed by the present President of the United States, that 'the justices of the supreme court are members of the Governor's staff,' and who deigns to give to your Honor, as his staff officer, the benefit of his protecting presence, while at the same time he stands ready to answer questions of defendant's counsel, whether he be the party interrogated or no."

The Court—"This discussion is becoming exciting and I shall not permit further remarks outside the case."

Mr. Fitch—"I beg your Honor's pardon,—but I have not traveled out of the proper line of argument, except to comment upon interruptions, made irregularly by Mr. Baskin, and improperly by Governor Woods." (See *Deseret News*—Weekly—of Sept. 13th, where the court proceeding in full is given).

14. The men wanted were H. L. Davis and J. J. Baum. In the latter part of December Baum had killed one Richard Brown, who had seduced and then refused to marry his niece, notwithstanding her pleadings with him to do so. It was not known at first who killed Brown, Harry L. Davis was accused of the crime but during the inquest at Provo, when David was under examination Baum entered

The federal officers in Utah were not all agreed as to the wisdom or the legality of the procedure invoked in Utah under this Shaffer-Woods-McKean *regime*. C. H. Hemstead, U. S. District Attorney for Utah since 1868, refused longer to be connected with it. His resignation took place about the time of the opening of the September term of the third judicial district, and was accepted by Judge McKean who immediately appointed R. N. Baskin to discharge the duties of that office;[15] and General Geo. R. Maxwell acted as his assistant, both gentlemen were pronounced anti-Mormons, and from them the McKean judicial policy could hope for strong support.

Considerable progress had now been made in the development of the evident conspiracy against "Mormon Theocracy" in Utah. By Governor Shaffer's administrative act the commander of the Utah militia elected by the people according to the Territorial law, had been set aside, and a new commander—P. E. Connor, of past and present [1870-5] anti-Mormon fame—had been illegally appointed by the Governor in his stead; the probate courts had been stripped of their criminal jurisdiction—the courts of the people, in whose justice they had confidence; said courts were also, contrary to law, deprived of participation in the choosing of grand and petit jurors; the Territorial Marshal and Territorial Attorney had been rejected as officers in the federal courts in Territorial cases; the juries, grand and petit, were to be selected by the U. S. Marshal on open veneri; it had evidently been determined that there would be no naturalization of Mormon aliens; the U. S. Marshal would have charge of the penitentiary; the U. S. military—according to the

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the court room and confessed to the killing of Brown for the reason stated, and also for the further reason that Brown had threatened his life. The inquest court returned a verdict of justifiable homicide; and Brown and Davis were both released. A packed grand jury, however, got out an indictment against both Brown and Davis and their arrest was attempted as described in the text above. See *Deseret News*—Weekly—of Jan. 11, 1871; also of 13th and 20th September, 1871; and Whitney's Hist. of Utah, Vol. II, p. 592—note. Also Deseret News of Oct. 4th, 1871, where it is alleged that the death of Mrs. Davis was hastened by fright on account of military "raid."

15. See Reminiscences of Early Utah, Baskin, p. 38. According to Mr. Baskin McKean read from U. S. statute a provision which authorized a district Judge, in case of a vacancy in the office of district attorney, to appoint a person to exercise the duties of the vacant office until such vacancy should be filled. Baskin consented to accept the appointment. Id. Mr. Baskin had been the assistant to Mr. Hemstead for some time previous to this.

recent Provo-Springville precedent—could be relied upon as a *posse commitatus* in aid of the *regime.*

In all this one cannot fail to see that the evident intention of the group of federal officials now in charge of affairs in Utah was to accomplish, without the sanctions of law, what the congress of the United States had refused to authorize when it denied passage to the outrageous Wade, Cragin, and Cullom bills. Congress had refused to pass these measures, which would have turned Utah over to the rapacity of the hungry pack patriotically anxious to despoil her. But what Congress had refused to grant by special enactment, the conspirators determined to take by means of assumed powers, and by the wresting of the law to their own vicious purposes. And those purposes? Undoubtedly the overthrow of the Mormon leaders; the breaking down of the political power of the Mormon people —the people who had redeemed Utah from a desert waste and given it to civilization—these people who, under American principles, were entitled to the sacred and guaranteed rights of self-government, under the National Constitution and the Organic law of the Territory,—were to be despoiled of their political heritage; and with them thus dispossessed of, or limited in their rights, the conspirators, McKean, Woods, Baskin, Maxwell, *et al.,* were to bring Utah into the Union, themselves and associates to become the senators, representatives, governors, judges, etc. —in a word, become the ruling class in the new state, while the people of Utah should be blessed with the privilege of continuing to make the desert lands fruitful by their toil, and pay the taxes. Utah under these bright prospects looked like exceedingly "good picking" to the hungry horde of office-holding and office-hunting adventurers who had now beset her.[16]

16. Let it not be thought that these are prejudiced Mormon views. The facts set forth in the foregoing paragraphs warrant the conclusions, and very many leading papers in the United States east and west charged the group of Utah and Washington conspirators with such designs. The Omaha *Herald* for instance in a leading editorial, speaking of this anti-Mormon conspiracy said: "This conspiracy began with the advent of the existing herd of federal mercenaries to Utah. It crystalized under the agitation of the Cullom bill which was drawn in Salt Lake. The object was to break down the political power of the people who had conquered Utah from a desert waste into a beautiful garden. This was necessary to enable these malignants to occupy, possess and control it. With the fall of the Mormon power McKean, Woods & Co. were to bring Utah into the Union as a State, and become Senators of the United States, and heroes in a land already suffering from a surfeit

In the several steps taken in the development of the conspiracy against "Mormon Theocracy" the stage was exceedingly well set for what is immediately to follow.

At the September term of court, 1871, a Territorial law passed by the legislature in 1852, to punish "adultery," and "lewd and lascivious association" was invoked in the crusade against Mormon polygamy. Of course the statute was not intended by the Utah legislators to apply to polygamy, and there was on the statute books the congressional law especially passed against "bigamy," to meet supposed conditions in Utah; but it was thought that more successful prosecutions could be made under the Territorial than under the congressional law, since under the latter the plural marriage as well as the first one had to be proven in order to conviction. Besides the penalties of the Territorial law were greater.

The first victim of this new departure was one Thomas Hawkins. The territorial statute in question provided that "no prosecution for adultery can be commenced, but on the complaint of the husband or wife." In the case of Hawkins, who had mar-

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of such. The Cullom Bill failed. Far fetched edicts of the law, promulgated through stump speeches from the bench, likewise failed. The sceptre, not yet grasped, was departing. Something must be done. Criminal statutes must be invoked. Proofs of crimes other than that of polygamy must be secured. But before this is permitted, in pursuance of a deliberate plan, decisions must be promulgated whereby, under a thin disguise, Mormons, on account of their religious beliefs and practices, must be excluded from juries which would be thus necessarily constituted of their deadliest enemies—men who would do the known wish, if they did not obey the actual behests, of their desperate masters. And this is but a brief outline of a conspiracy which aims, at whatever cost, to destroy men and institutions in a Territory whose civilizing and industrial achievements are the admiration of mankind." (Omaha *Herald* of Oct. 4th, 1871). This is from the San Francisco *Examiner* of about the same date. "The whole thing (i. e. the Mormon trouble) is instigated by a 'ring' of Republican politicians, who are looking to the speedy admission of Utah as one of the states of the Union. These small fry, popinjay politicians, and would-be statesmen, know full well that they will have no show for promotion until the Mormon power is broken. Hence it is that they seek to create a civil war by means of packed juries, unprincipled judges and perjured witnesses. Of course, if they determine that no Mormon shall sit on a jury to try Young, as all were excluded from the grand jury, he will necessarily be convicted. Having the judge and marshal they can pack a jury to suit themselves. If they can send Brigham to prison, and induce the people to rise up and liberate him, and thus produce a conflict, Utah will be at once admitted as a state, and under the protection of federal bayonets, these mischief makers can have themselves elected senators, congressmen, etc., just as the thieving carpet-baggers did at the South. The whole affair is a disgrace to the American name. That a vile, little clique of corrupt politicians should be permitted to use the power of the government to embroil a peaceable community in civil strife, to gratify their personal greed for place and plunder, is an outrage upon decency, humanity, and justice." (Copied into *Deseret News* of Oct. 25th, 1871).

ried a plural wife, under the sanctions of the Mormon Church, the first wife entered complaint before the grand jury, and an indictment was found for violation of the act of the Territory of 1852. On trial Hawkins was found guilty of "adultery" and sentenced to three years imprisonment and to pay a fine of $500. He appealed his case to the Territorial supreme court, but not being able to give the bond of $20,000, demanded by the court, he was remanded to prison to await the time of hearing the appeal.[17]

The grand jury at the same term of court indicted President Brigham Young, but under a different section of the law, *viz,* section 32; which provided that "if any man and woman, not being married to each other, lewdly and lasciviously associate and cohabit together . . . every such person so offending shall be punished by imprisonment not *exceeding ten years,* and not less than six months, and fined not more than one thousand, and not less than one hundred dollars, or both, at the discretion of the court." Setting aside then the fact of the marriage of Brigham Young to his plural wives, by sanction of the Mormon Church, the "packed" grand jury found an indictment against him for "lewdly and lasciviously associating and cohabiting with women, not being married to them."[18] On the second of October he was arrested upon this charge; and his arrest was followed quickly by the arrest of Daniel H. Wells, Mayor of Salt Lake City, and President Young's second counselor; Geo. Q. Cannon, editor the *Deseret News,* and Henry W. Lawrence, the last a leader in the late "Godbeite movement."

A motion to "quash" the indictment was made by President Young's council on the plea that the grand jury was not legal, not being impanneled as provided by law either of the Territory or of the United States; and that the inclusion of sixteen counts in one indictment, not being different parts of one offense, nor different statements of the same offense, or in any wise connected with each other—were illegal. The Judge overruled the

17. The trial of the case appears in Utah Reports, for 1871, p. — See also Baskin's Reminiscences Ch. V. It was a standing jest of the times that the pompous lecture given by the Judge to Hawkins was greater punishment than the imprisonment and fine. The speech of the Judge will be found in the *Deseret News*—Weekly—of Nov. 1st, 1871.

18. The indictment contained sixteen counts and charged as many offenses, extending from 1854, to the finding of the indictment, 1871.

motion. It was on that occasion that Judge McKean used phraseology that has become somewhat famous in Utah annals, and which confessed the true inwardness of this whole court procedure at that time, and proclaimed the mission character of Judge McKean's appointment:

"Let the counsel on both sides, and the court also, keep constantly in mind the uncommon character of this case. The Supreme Court of California has well said: 'Courts are bound to take notice of the political and social condition of the country which they politically rule.' It is therefore proper to say that while the case at bar is called *The people versus Brigham Young* its other and real title is *Federal Authority versus Polygamie Theocracy.* The government of the United States, founded upon a written constitution, finds within its jurisdiction another government—claiming to come from God—*imperiam in imperio*—whose policy and practice, in grave particulars, are at variance with its own. The one government arrests the other in the person of its chief, and arraigns it at this bar. *A system is on trial in the person of Brigham Young.* Let all concerned keep this fact steadily in view; and let that government rule without a rival which shall prove to be in the right."[19]

President Young was in court during the above hearing. When his counsel several days before had asked extension of time to prepare the case, and the fixing of bail—since his client was nominally in charge of the U. S. Marshal—the assistant prosecuting attorney, Gen. Maxwell, objected. "He wanted the defendant to come into court to plead to the indictment. 'The people,' he said, 'demanded that Brigham Young should appear in court the same as anybody else.' The court granted the extension of time . . . but said the bail could not be taken until the defendant pleaded to the indictment." So the defendant came into court to plead to the indictment; and such was the quiet and dignified bearing of the great Pioneer, that he won golden opinions from all who observed him that day.[20]

19. *Deseret News*—Weekly—of Oct. 12th, 1871, p. 436. Formal Exception was taken by President Young's Council to the prejudice-creating effect of the passage. See signed communication in the court record, and *Deseret News*—Weekly—of Oct. 18th, 1871.

20. The Salt Lake *Tribune,* notwithstanding its anti-Mormon bitterness, and the fact that it was backing with all its might the proceedings of the anti-Mormon "ring" of Utah, could not withhold its praise. In an editorial commenting on the court procedure of the day before under the title, *"Brigham Young in Court,"* the

All the parties arrested at this time were admitted to bail in the sum of $5,000 each; and President Young, as had become his custom in late years took his departure for St. George on the 24th of October, to spend the winter; but it was soon reported, and much discussed through the press of the country at the time, that he had "fled from justice." Meantime the President was filling a rather extensive itinerary in the settlements of the Rio Virgin valley, holding many public meetings and enjoying the friendship and hospitality of the people, of which he wrote to Elder George Reynolds under date of December 11th, 1870.[21]

Tribune said: "It was a decidedly novel spectacle yesterday afternoon to see the 'Lion of the Lord' sitting in the court room waiting for the coming of his earthly Judge to try him. * * * There can be no doubt that the President of the Church of Jesus Christ of Latter-day Saints made several very good points yesterday. His being there a quarter of an hour before Judge McKean, patiently waiting his coming, was very wisely arranged, and looked well on an occasion which opens a series of circumstances destined to form a chapter of history. His appearance in court, too, his quietude, and an altogether seeming absence of a spirit chafing with rage at being brought to trial, evidently made a good impression. If there was any malice against him before, the sight of Brigham Young, at least practically acknowledging the authority of the United States to try him, even for the highest crimes known in the law, and the respectful bearing which he put on, disarmed much of that malice. The moral effect of Brigham's appearance and the conviction of innocence which it produced, brought Major Hempstead to his defense, and he plead very powerfully in his behalf, occasionally throwing a spice of wit at the prosecution. The editor of the *Vidette*, who sought years ago to 'reconstruct and regenerate' Bro. Brigham, yesterday afternoon eloquently objected to the proposition to reconstruct and regenerate the Prophet and urged the indictment should be quashed. It is evident that President Young's thus coming into court, and his resolution to abide every trial, and contest the charges brought against him constitutionally, through his counsel, was the very wisest course he could have taken. It will divide people in his favor and bring many of the Gentiles to the help of Israel even as it has already brought two of their lawyers to the defense of the Prophet. Perhaps there was more respect and sympathy felt for Brigham Young, when he left the court-room, feeble and tottering from his recent sickness, having respectfully sat in the presence of his judge three-quarters of an hour, after bail had been taken, than ever there was before in the minds of the same men."

21. See *Mill. Star*, Vol. XXXIV, p. 28. The arrest of President Young in any event would have created a sensation throughout the United States; but the misrepresentations attendant upon its announcement greatly intensified the sensation. For example, following are the scare head lines in the New York *Herald* of Oct. 1st, telegraphed from Salt Lake City by Oscar S. Sawyer, managing Editor of the Salt Lake *Tribune*. It is to be observed that since these scare head lines appear in the New York *Herald* on the first of October, a day before the arrest of Brigham Young, the *Tribune* managing Editor was evidently in the confidence of the prosecution as to the intended arrest of Brigham Young:

"BRIGHAM YOUNG HAS BEEN INDICTED

"On several charges, and it is also said that he is likely to be tried the coming week on one of the indictments.

"THE MORMONS ARMING.

"The sale of muskets and ammunition continues, and it is reported that more arms than those bought at the recent government auction sale at Camp Douglas have been disposed of.

Quite unexpectedly, on the 20th of November, the very day on which President Young started on his journey to the southern settlements the prosecution called up the case of "The People vs. Brigham Young," Mr. Baskin saying that the prosecution was ready to proceed with the case. Defense asked for a postponement of the case to the March term "according to previous expectation." Mr. Baskin stated that from public rumor it was known that the defendant had gone outside the jurisdiction of the court and he should demand a showing and a forfeiture of his bond in case of his non-appearance. Mr. Hempstead, counsel for President Young, would be ready for trial whenever the court should set down the case. With the understanding of his counsel that a reasonable time would be granted for trial, the defendant had taken his usual winter journey to the south for the protection of his health against the severity of the climate. Mr. Baskin rebuked the counsel for so advising the defendant. Seven days later the court again took up the case, the prosecution insisting that they were entitled to the forfeiture of the bond; and the counsel for the defense asking that a reasonable time be given to bring defendant into court. Mr. Hempstead charged, though in negative form, that the prosecution by insisting upon the forfeiture of the bond only did it for the purpose of having it heralded abroad that Brigham Young had forfeited his bail and fled from justice. If the case could not be postponed until the March term then the defense would ask for a day to be set as far in advance as possible. The court refused to declare the bond forfeited, *but set the day of trial one week from that time*—from the 27th of November, to the 4th of December. As it was practically impossible for the defendant to be brought from St. George by that time, the bond for all practical uses might as well

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"EXCITEMENT AMONG THE SAINTS.

"The feeling of the Mormon people, as reflected by the church organs, the News and Herald, is unmistakably rebellious and warlike. The News, the official organ for Brigham Young, is extremely bitter and offensive. It advocates

"OPEN RESISTANCE TO THE LAWS.

"Libels United States officials, and endeavors in every way to incite the people to open rebellion. Under these influences many persons are sending off their wives and children to points where there will be no danger. The church organs are doing everything in their power to fire the Mormon heart, and the result cannot but be disastrous if the fanatical element is once aroused and fully loosed."

have been declared forfeited. It was in vain that counsel for the defense pleaded the impossibility of having defendant in court by that time, and asked for two weeks instead of one. The court's answer to such pleading was "*the day of the trial has been fixed for a week from today.*"

Meantime things had been happening elsewhere. That afternoon when Judge McKean overruled the motion to quash the indictment against Brigham Young, and announced that a system was on trial in the person of Brigham Young, United States Senator, Oliver P. Morton, of Indiana, and his party, which included the Editor of the *Indianapolis Journal,* Mr. Fishback, the Senator's social and political friend, were present. Under date of October 12th, and headed, "On The Pacific Road," Mr. Fishback wrote in his *Journal* the impressions upon the party of the McKean Court proceedings as they witnessed them on the aforesaid afternoon. Excerpts follow:

"After a full and free conference with the leading Mormons, Federal officers and business men of Salt Lake City, we predict that a dreadful civil war will soon be raging in this fertile region, resulting in the loss of thousands of lives, the expenditure of millions of public treasure, and the complete devastation of one of the most beautiful and thriving regions on the continent, unless the administration interferes with the schemes of the petty lords of misrule, who are doing their utmost to bring it about.

"It is unfortunate for the nation that it is in the power of such men as Judge McKean and the deputy district attorneys, Maxwell and Baskin, to precipitate a collision between the Federal authorities and the Mormons, in a contest in which the government occupies a false and untenable position. . . .

"We are convinced that the pending prosecutions are conceived in folly, conducted in violation of law, and with an utter recklessness as to the grave results that must necessarily ensue. How does the matter stand? There is a vacancy in the office of United States district attorney for the Territory of Utah. Judge McKean has appointed two lawyers, Maxwell and Baskin, to act as deputies. These deputies boast that they have instigated the prosecution and assume great credit for the disingenuous trickery by which they hope to force a conflict whose consequences they have not the capacity to measure or understand. It is much to the credit of President Grant's adminis-

tration that these deputy prosecutors arrogate to themselves the entire credit of conceiving the disreputable trick to which they have resorted to effect their purpose."[22]

The Journal's "Editorial Correspondence" was widely quoted in the east, and did much to modify public opinion and call a halt upon the prevailing radicalism. It is also to be noted that in the consideration of Utah questions as they arose in the U. S. Senate, in the following session of Congress, Senator Morton, together with Senator Lyman Trumbull exerted their influence on the side of conservatism in dealing with Utah affairs.[23]

Early in November, Geo. C. Bates was appointed by President Grant to be U. S. district Attorney for Utah, succeeding the unlawfully, but McKean—appointed R. N. Baskin. He arrived in Salt Lake City on the 30th of the same month. On the 4th of December, the day set for the trial of Brigham Young, and the defendant not being present in court, Mr. Bates moved the forfeiture of the bonds, the defense, of course, protesting, Judge McKean refused to grant the motion to forfeit the bond and adjourned the court to the 9th of January, but not before Mr. Bates had served notice that on that date he would call up the case of the People *vs.* Brigham Young, and press it for trial.[25]

President Young, while visiting the settlements in the Rio Virgin Valley, had of course been kept informed relative to the progress of things in the north, and the question arose as to the wisdom of his returning to Salt Lake City to face his enemies, for it was known, as will appear presently, that more formidable charges were to be met than the silly one of "lascivious cohabitation." There was a general feeling among the brethren that it would be best for him not to return to fall into the hands of his enemies, but the impression of the spirit upon President Young's mind was that it would be best for him to return, and accordingly preparations were made, and on the

22. The Letter is published in full in *Deseret News*—Weekly—of Nov. 8th, p. 464.
23. See Congressional Record of 1872, *passim.*
25. The minutes of the court's session are given in full in *Deseret News*—Weekly—of Dec. 6th, 1871, p. 515.

evening of the 17th of December (Sunday) after holding public meetings in St. George, the northward journey was begun.[26] The second day's journey brought them to Kannarrah, in Iron county. Here they met the veteran life guard of the Prophet Joseph Smith, John D. Parker, "who wept like a child because President Young was going back to face his enemies in the court room, which he considered an act of madness." "This feeling was very general with all the people the party conversed with as they passed through the southern country," says the journal of the party; "but President Young told the people that God would overrule all for the best good of Zion."[27]

At Cedar on the 20th of December the President's party was met by Orin P. Rockwell, Joseph A. Young, son of President Young, Orson Arnold—the one man wounded in the "Echo Canon War,"—it will be remembered; he came to act as President Young's teamster. Beaver was made by the 21st, and up to this time the weather had been mild. It was the intention of the party to make an evening drive to Cove Fort, but as the teams were being set to the vehicles a blinding snow storm came on and the drive was abandoned. This proved fortunate, as Elder Musser who went on in the evening with the Peoche coach had to walk all the way facing a storm. Several times they lost the road. General Connor was a passenger on the coach, he expressed himself strongly against the prosecution of Brigham Young, and offered to sign bonds to the extent of $100,000 in favor of Brigham Young if he could be admitted to bail.[28]

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26. Hist. of Brigham Young, Ms. 1871, Vol. II, p. 2051. President Young was accompanied by his first counselor, Geo. A. Smith, William Rossiter—"telegraph operator"—R. T. Burton, Charles and A. F. McDonald, John Henry Smith, Amelia Young, and Bathsheba W. Smith, wife of Geo. A. Smith. (Id).

27. *Ibid,* p. 2076. It is common knowledge to those who were closely associated with President Young in his career that he was greatly influenced, and often against his own judgment, by what he called "the Light"; doubtless the inspiration of God to his mind. He would say when matters were up for consideration, "Brethren, the Light says so and so," which was generally the end of argument. So now on this question of his returning to face his enemies, he had said *"The Light says, Brigham, return."* The application of this guiding principle in the present instance is made upon the statement of William R. Smith, President of the Davis Stakes of Zion, to the author, President Young having related his experience in the above instance to Mr. Smith.

28. *Ibid.,* History of Brigham Young, *Ms.* 1871, Vol. II, pp. 2101-2.

The next day the President's party drove to Cove Fort. About a foot of snow had fallen in Wild Cat pass, and in Pine Valley Mountains. Telegraph wires were down. At Cove Fort the party was joined by Culbert King and five others from Millard county, bringing fresh horses to break the road through the snow if needed. En route to Fillmore,—the old Territorial Capital,—"through Dog Valley, the storm was so fierce as to render it very difficult to see the animals or keep the road. Luckily, however, the wind was from the south; roads extremely muddy." The party learned at Fillmore that it had taken the stage 29 hours from Fillmore to Nephi—62 miles. Telegraph line was interrupted north of Nephi.[29]

At Round Valley the party picked up telegraphic communication with Salt Lake City, "ascertained the coast was clear; roads ahead muddy. Several brethren accompanied us temporarily supplying the places of some of the weaker animals with their fresh horses. President Young's horses were led."[30]

On the 26th President Young left the rest of his party and started from Nephi at 6.30 a. m., riding with Bishop John Sharp in an open buggy. The Bishop had joined the party at Nephi. They faced a severe storm from Nephi to Payson, in Utah county; thence drove to Provo; and later to Draper the terminus, at that time, of the Utah Southern Railroad. Here they were met by Daniel H. Wells and others, with a special train, which carried them to Salt Lake City, arriving at about 11.45 p. m. on the 26th of December.[31] Such the journey of 350 miles in mid-winter, which Utah's great Pioneer made at the age of seventy-one to face his enemies in a United States court.

It was not to meet the petty charge of "lascivious cohabitation" that this journey of President Young's was made; but, as already suggested, he had learned that there existed a more serious charge against him, that of "*murder.*" In the previous November he had been jointly indicted with D. H. Wells, Mayor of Salt Lake City, and others, for the "murder" of one Yates, during the "Echo Canon War." Mayor Wells, Hosea

29. Journal of the Party. *Ibid*, 2120.
30. Journal of the President's Party, *Ibid.*, p. 2153.
31. Journal of the Party. *Ibid.*, p. 2158.

Stout, formerly Attorney General of the Territory, and W. H. Kimball, had been arrested on the 28th of October, on the same charge. The Mayor was sent a prisoner to Camp Douglas, where he was in charge of General Morrow.[32] Two days later he was admitted to bail in the sum of $50,000. The prosecution resisted the Mayor being admitted to bail, but to the surprise of the other officers of the court, and the large audience in attendance, Judge McKean admitted the Mayor to bail; and when the prosecuting attorney insisted on $500,000 as the bond, the court sharply answered—"No, the defendant will give bail in the sum of $50,000."[33] The other parties to the alleged crime were not admitted to bail.

Acting U. S. District Attorney Baskin planned the indictment and arrest of Brigham Young on this charge of murder, on the strength of the confessions of the notorious "Bill" Hickman who had confessed to some eighteen or twenty murders.[34] In his recently published Reminiscences[35] Mr. Baskin states that some time before his appointment by Judge McKean, he had private interviews with Hickman, for whom warrants of arrest were out, and who, to him, made confession of a number of murders. Hickman at the request of Mr. Baskin consented to go before the grand jury, and Baskin handed to Major Hempstead the statement of the self-confessed murderer, with the announcement that Hickman was ready to go before

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32. It was only over Sunday, however, that he was detained at the Camp, where he was more the guest of General Morrow than his prisoner, "at whose table he ate with the General and Mrs. Morrow, at whose respectful request the honored prisoner asked a blessing over the food." Hist. of Salt Lake City, p. 546.

33. The announcement by the Judge that the prisoner [Wells] would be admitted to bail brought forth hearty applause in the court room for nobody supposed that bail would be allowed in any sum. Indeed the counsel for the defense thought it useless to make the application for it. "It was Mayor Wells himself who prompted Mr. Fitch to apply to the Court of Judge McKean for a writ of *habeas corpus* to be brought before the court to be held to bail. Mr. Fitch said it would be in vain; Judge McKean would not grant the bail; but the Mayor persisted in the inward prompting that *"the Lord would interpose"* and thus spurred by the faith and judgment of the prisoner, counsellor Fitch sat down Saturday night and all day Sunday to his work and prepared one of the most masterly efforts of his life, which, strange to say, Judge McKean prevented in its delivery by granting the bail. The applause in the court room was as genuine as the surprise was great, from non-Mormons as well as Mormons." (Hist. Salt Lake City, p. 545).

34. See Beadle's "Brigham Young's Destroying Angel, Being the Life, and Confession of 'Bill' Hickman"—1872.

35. Reminiscences of Early Utah by R. N. Baskin, Ex-chief Justice of the supreme court of Utah, June, 1914.

the grand jury.[36] It was at this point that Hempstead resigned and Baskin was appointed by McKean to fill the vacancy.[37] Becoming acting U. S. district attorney Mr. Baskin had the opportunity of doing what he had urged upon his predecessor to do, and hence the indictments for murder against Brigham Young *et al.,* upon the confessions of Hickman, with alleged "statements of other persons to me [i. e. Baskin, which nowhere appear] tended to corroborate his confessions."[37] This as well as the cases of "lewd and lascivious cohabitation" was Mr. Baskin's work.[38]

He knew that the indictment of Brigham Young would cause great excitement, and if a "collision occurred it would be at the time Brigham was arrested on the charge of murder." "To meet such a contingency," he writes, "the United States Marshal had appointed about one hundred deputies, most of whom had been soldiers in the civil war, and General De Trobriand, commander of Camp Douglas had been ordered to furnish upon the request of the Governor a posse of soldiers to aid the Marshal."[39]

Finally the *coup de main* in the arrest of Brigham Young on the charge of murder was ordered for Monday the 20th of November, but President Young by that time was in St. George, and the *coup de main* was a failure.[40]

It was this failure of the *coup* that was the cause of the irascibility of the acting district attorney when he called up the case of "lascivious cohabitation" against Brigham Young on the 20th of November, and insisted upon the forfeiture of his bond.

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36. Baskin's Reminiscences, pp. 36, 37.

37. *Ibid,* pp. 37-38.

38. *Ibid.,* p. 37.

39. The matter of securing troops to aid in these arrests evidently went beyond Camp Douglas. A press dispatch from Washington, under date of Oct. 31st, said: "At the cabinet meeting to-day the subject of the Utah prosecutions was considered and it was determined that if necessary more troops will be sent to that Territory. It is known that some of the Federal officers asked for troops to aid in making arrests, but this was considered to be inexpedient, unless resistance should render additional force necessary." See *Deseret News* of Nov. 1st, 1871.

40. Mr. Baskin represents that it was the Sunday night previous to his planned *coup* that President Young secretly left Salt Lake City (see Reminiscences p. 55), where as the President's Letter to Elder Reynolds, written from St. George on the 11th of December, shows that previous to the 20th of November there had been an extensive itinerary performed along the line of settlements on the *Rio Virgin.* (See Mill. Star, Vol. XXXIV, p. 28).

He had been defeated in his larger plot against the man he had chosen for his judicial victim.

It was a dramatic incident when in the afternoon of the 2nd of January, 1872, Brigham Young accompanied by his counsel, *Messrs.* Hempstead, Fitch, *et al.*, and a large number of friends, walked into the court presided over by Judge McKean. His application through counsel for admission to bail was being considered when he and his friends entered the court room. A certificate of Dr. W. F. Anderson, stating that he was the attending physician of Brigham Young, and that confinement would in all probability prove fatal to him in the present feeble state of his health, and at 71 years of age, was read. The new prosecuting attorney, Mr. Bates, made no objection to bail being allowed. Mr. Baskin by now had been eliminated,[41] hence Mr. Bates could say, as he did say, that "he stood there as the sole representative of the United States in this motion. He held that it was left to the discretion of the court as to whether bail be granted or not; bail, however, had been granted in instances "equally important with this case," and the district attorney referred to the cases of Aaron Burr, and Jefferson Davis. But if bail were granted, he should demand that it be in the sum of $500,000. The judge declined to admit the defendant to bail; but granted him the privilege of selecting one of his own houses, and placing it at the disposal of the U. S. Marshal, if he should so elect, and defendant might be detained there under custody of the marshal until the time of trial.[42] And this was done.

In addition to the arrests already noted during this period, and under Baskin-Maxwell's excessive activity, a number of others, including some of the city offices,—Alexander Burt, chief of police, and B. Y. Hampton, one of the force, being among the number,—were arrested on a charge connecting them with the J. King Robinson murder. They were detained in the city prison at first, but afterward were removed to Camp Douglas. According to the statement of Mr. Bates published by the N. Y.

41. Although Mr. Baskin became the assistant district attorney by appointment from Washington, it soon became apparent that the district attorney and his assistant were not in harmony with each other, and Mr. Baskin resigned. *Reminiscences*, p. 57.

42. Proceedings of the court in this case are published in *Deseret News*—Weekly—of Jan. 10th, 1872, p. 599.

Herald Washington Correspondent, under date of January 25th, about twenty prisoners were confined at Camp Douglas, at great expense to the government.[43] Meantime the judicial crusade was meeting with insurmountable difficulties. The Judges in Utah had declared the district courts to be United States courts, as well when trying cases under Territorial statutes as when trying cases under federal statutes, and the United States a party to the cause; and that the proper officers of such courts were always the United States district attorney and the U. S. Marshal. The department of justice at Washington, however, did not take this view of the case, and when the bills for expense of these "United States courts" and their "officers" were presented, they were not allowed.[44]

Congress was appealed to, and asked to make a special appropriation to cover the expense of these courts, but congress is slow in such matters.[45] United States marshal, Mr. Patrick, applied personally to the Territorial auditor, William Clayton, for funds with which to pay court expenses, but that functionary after applying in writing to the attorney general of the Territory for instructions received a written opinion in which law authorities are cited at length to show that the Territorial marshal alone was authorized to draw the warrants for these expenses, and his authority to do that limited to the expenses of Territorial courts. The author answered accordingly.[46] The indebtedness of the courts by this time amounted to $15,000; the greater part of which, owing to the anti-Mormon zeal of the U. S. marshal, Mr. M. T. Patrick, had been advanced by him. The rest was due to jurors and witnesses.[46½]

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43. The *Herald* article is copied into *Deseret News* of Feb. 21, 1872.

44. "The United States comptroller," said district attorney Bates, in a letter to Senator Lyman Trumbull, (Dec. 30th, 1871) "disregarding the ruling of our supreme court here [Utah] decides that all these offenses are against *Territorial laws, to be punished only in Territorial courts, by Territorial* officers thereof, and that the United States treasury must not and shall not pay a penny of these costs. The result of which is that all jurors and witnesses' fees and contingent expenses of these courts for the last year are unpaid, and there is not now a cent to pay them either for the past or future." (Copied in *Deseret News* of Jan. 17th, 1872).

45. The whole correspondence and opinion as submitted to the legislature is published in *Deseret News*—Weekly—of Feb. 7th, 1872.

46. This whole matter with the official correspondence between Mr. Bates and the department of justice, was by him, early in January, brought into the third district court, presented and made part of the court record. It is published in full in *Deseret News*—Weekly—of Jan. 17th, 1872.

46½. Ibid.

The only Territorial officer authorized to direct the payment of court expenses—Territorial marshal—the federal judges had ruled out of existence;[47] and the Territorial legislature could not be expected to pay the expenses of courts and their officers, when the federal judges in their decisions had annihilated them.[48] A deadlock therefore had been brought about by the over-smartness of the federal crusaders, and Mr. Bates was compelled to ask,—the U. S. Attorney General at Washington directing him to do so—for a continuance of the twenty odd cases then pending, to the March term, by which time it was hoped congress would have provided the necessary means for carrying on these prosecutions.[49] In the preceding March term Judge McKean had been compelled to dismiss the grand and petit juries for the reason that there was no way in which payment of their *per diem* allowance could be made; and at the same time he stated that there was then on the docket of his court, "awaiting trial, civil cases involving millions of dollars."[50] To such a pass had the cunningly planned judicial crusade brought civil and criminal affairs in Utah.

47. See letter of John D. T. McAllister, Territorial marshal, under date of March 14, 1871. Judge McKean in an address to the grand jury had said: "The high priesthood of the so-called Church of Jesus Christ of Latter-day Saints who control the assembly, and all the officers of, or who are elected by, the assembly, refuse to permit the expenses of the U. S. courts to be paid unless they are allowed to control those courts." Marshal McAllister in the letter above cited answered: "I alone have refused the funds for the payment of U. S. officers and expenses of the courts when doing U. S. business. If his honor wants to hold courts for Territorial business he should order venires to be placed in my hands. I then will summon, according to law, by drawing from the ballot box of each county the names of jurors certified to by the clerk of the county; such jurors so drawn, lawful, good, and true men, can get their *per diem*, and the expenses of the courts paid." The marshal also said that he had always had funds—had then—to pay the expenses of the district courts for the Territory, and the assembly "allowed all my bills for 1869, something over four thousand six hundred dollars." See *Deseret News*—Weekly—of March 22, 1871, both for the Judge's address to the jury and the marshal's letter.

48. The U. S. district attorney, Mr. Bates, expressed the hope, however, when describing the state of things judicial in Utah—and this in open court—that "the Territorial legislature which meets today, will see the propriety on their own part, of providing funds in order that their leaders may be vindicated if unjustly accused, and punished if guilty, of the high crimes charged against them." *Ibid.* The legislature remained obdurate to this and all other appeals upon the subject.

49. The court proceedings in these matters will be found in *Deseret News* of Jan. 17, 1872.

50. Judge McKean's address to the grand and petit jurors was a very bitter document, and fairly hisses with the malice and hatred this Judge bore to the Church of the Latter-day Saints. All the embarrassment and hindrance to the "crusaders" against "Mormon Theocracy," he charges to the "High priesthood of the so-called church of Jesus Christ of Latter-day Saints." The address is given in full in *Deseret News*—Weekly—of March 22nd, 1871.

District Attorney Bates at the request of the U. S. Attorney at Washington, went to the capital to advise the department of justice with respect to conditions prevailing in Utah.

Soon after his arrival in Washington, and after communication with the attorney general, and by the latter's direction, U. S. district attorney Bates telegraphed to his deputy, James L. High, to move the third district court to admit to bail all the prisoners under arrest, and awaiting trial. Mr. High, relying on this authority, which he produced before the judge in chambers, made the motion for bail in each case,—including, of course, President Young's. "In behalf of the government, and in the name of the attorney general of the United States," said he, "I make this motion." The answer of the judge was—"I refuse to admit these prisoners to bail." In his ruling he declared that the granting of bail in these cases would establish a dangerous precedent; that there were reasons which could not "be made public why these prisoners could not be admitted to bail," and which he held Mr. Bates could not have communicated to the attorney general. Indeed the judge openly and from the bench accused Mr. Bates with having made "serious misstatements," in other particulars, in regard to affairs in Utah. "I am placed here to decide under the laws all judicial questions that shall arise in this district court," said the judge, "and were I now to shrink, or swerve from a plain duty, it is not improbable that the irresponsible magistrate called 'Judge Lynch' would assume the seat which I would thereby have proved myself unworthy to hold."[52] It is evident that the Judge thought his position an heroic one.

It was doubtless such representations as the one in the above paragraph, supplemented as they were by the influence which Rev. Newman still had with President Grant that led to the request for the resignation of attorney Bates; a request which that gentleman refused to comply with, however, on the ground that there were no charges brought against him.[53]

52. The proceedings in chambers are published in full with the ruling in *Deseret News*—Weekly—of Feb. 11th, p. 9.

53. "In this connection," said a Chicago dispatch of March 11th, to the Salt Lake Daily *Herald*, "it may be stated that Dr. Newman had an interview recently with the President; wherein the latter was urged to persist in the prosecution of the Mormons, as the country would not endorse any compromise with the anoma-

Such were the conditions in Utah, judicially, when there came over the wires from Washington the message that the Supreme court of the United States had reversed the decision of the Supreme court of Utah in the Engelbrecht case. The dispatch thus summarized the decision:

"Jury unlawfully drawn: summonses invalid; proceedings ordered dismissed. Decision unanimous. All indictments quashed."[54]

The effect of the decision in Utah, though tremendous, was unattended by any excitement, or extravagant conduct whatever, the press dispatches of the period to the contrary notwithstanding.[55] A great relief came to the Territory, and to

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lous condition of affairs in Utah. Dr. Newman ended by stating that Bates' resignation should be demanded both as a matter of policy and justice."

54. The decision was written by Mr. Chief Justice Chase and will be found in 13 Wallace Reports, pp. 659-63. The New York *Tribune* thus summarized the effect of the Supreme Court's decision: "The effect of this decision is to make void all criminal proceedings in the Territorial court of Utah during the past year, [eighteen months] and render necessary the immediate discharge of 138 prisoners who have been illegally held, at an expense of from $40,000 to $50,000, which there is no law to provide the payment of, and to affect in the same way all civil cases in which exceptions were taken to the legality of the juries. It is said that 20 or 30 of these civil cases have been appealed to the Supreme Court. The decision is considered as very damaging to the National Administration, as Judge McKean was supported in the course he took by the President, though Attorney-General Williams was always of opinion that the proceedings in Utah were illegal. The prosecution of the Mormons was known to be a distinctively administration measure, set on foot by the advice of the Rev. Dr. J. P. Newman, after his return from Salt Lake, where he went to discuss polygamy with some of the prominent Saints." (Copied into *Mill. Star,* Vol. XXXIV, pp. 297-8).

"After the Englebrecht case was reversed, it was again tried and the plaintiff recovered a judgment. And as it was doubtful whether even the original cost of the liquor could be obtained on execution, the plaintiff accepted the offer of the defendant's attorney to pay the original cost of the property destroyed. That amount ($20,000) was paid by money taken from the city treasury" (Baskin's Reminiscences, p. 35).

55. On April 20th, to counteract the lying press dispatches sent out from Salt Lake City reporting great excitement, and representing that the "Mormons were turbulent and threatening," nine prominent non-Mormons in business and professional life joined in a dispatch to Delegate Hooper at Washington declaring there had been no excitement over the decision of the Supreme court. "As all the citizens here know the aim of the press agent is to create excitement, or make it appear to exist, to provoke congressional action." Then the signatures. Shortly after this, special telegrams were sent to the San Francisco *Chronicle* and the New York *Herald,* from the crusaders, representing that the excitement in Salt Lake City was great, "bloodshed is imminent," etc. This brought forth a joint telegram signed by twenty-seven prominent Gentiles, among whom were "Warren Hussey, First National Bank; Theo. F. Tracy, Agt. Wells Fargo; B. M. DuRill, Pres., Salt Lake City National Bank; "saying that the aforesaid dispatches to the *Herald* and *Chronicle* were not true; and in addition affirming that "life and property are to-day as

the Latter-day Saints especially. All the evil and malicious schemes of the crusaders against "Mormon Theocracy" during the past two years were overthrown. The right of an American community to something like local self-government under the constitution, and the organic act, and the laws was maintained. They were not to be the helpless victims of scheming adventurers and worn out political hacks sent into their midst as federal officers. The taunts of the latter and their jeers were at an end; their whole course was now decided to have been illegal.[56]

At first there seems to have been a very frank willingness on the part of the Utah federal officials to accept the consequences of the Supreme court's decision as affecting the release of prisoners. "Upon receipt of a certified copy of the decision of the Supreme Court," wrote Mr. James L. High, assistant U. S. attorney for Utah to Judge Z. Snow, attorney general of the Territory, "I shall move the immediate discharge of all prisoners now in the custody of the U. S. marshal in this district."[57] There seems, however, to have been some delay in carrying out this plan, and Brigham Young sought release by writ of *habeas corpus* before Elias Smith, probate judge of Salt Lake county; and on the 25th of April the court ordered his release.[58] For some time the court's favorable decision in Utah had been anticipated. It was expected that it would be deliv-

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secure in Utah as in any state or Territory in the Union. * * * It is matter of deep regret amongst all classes of business men in this Territory, that the special dispatches sent from this city to the East are for the most part inaccurate and intensely irrational." Both dispatches here referred to with the signatures will be found in *Deseret News*—Weekly—the first in the impression of May 1st, p. 178; the second, in May 8th, p. 188.

56. The comments of the *press* in condemnation of the course of Judge McKean and suggesting and demanding his release would make a volume. The Omaha *Herald*, which throughout had condemned the Anti-Mormon regime, and stood up for the rights of the Latter-day Saints in Utah, could now indulge a little raillery on the change which had come over the press of the country: "It would be amusing if it were not so utterly ridiculous and absurd, to see Chicago, and other papers, now that the highest tribunal in the land has exposed the wicked conspiracies and infamies of McKean & Co., in Utah, clamoring for his removal. After doing all they could to egg him on in his lawless course, now that he is crushed they affect the most empty indignation over his past course and present discomfiture."—*Omaha Herald*, copied into *Deseret News*—Weekly—of April 24th, 1872, p. 153.

57. The Assist. Attorney's Letter and Judge Snow's answer will be found in Deseret News of May 1st, 1872.

58. The Court record of the case is published in *Deseret News*—Weekly—of May 1st, 1872. The other prisoners, held at Camp Douglas, were released by action of the third district court five days later. (*Id.*)

ered soon enough to bring about the release of President Young in time for him to attend, as a free man, the annual conference which began on the 6th of April. The conference was continued until the 9th, but the hoped-for decision was not made. An adjournment was taken to Sunday the 14th. The decision was not yet announced and adjournment was taken to Sunday the 21st. By this time the joyful announcement of the decision was made, but the prisoners were not immediately released, as had been the hope of the Saints in the event of a reversal of the Utah court. Oh, "the laws' delays!" Oh, "the insolence of office!" The conference adjourned to meet on the 28th, then came the release by writ of *habeas corpus,* and the attendance of President Young at both the morning and afternoon sessions of the conference.[59] In the morning he exchanged greetings and carried on a colloquy with the congregation, which responded as with one voice;[60] and at the

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59. President Geo. A. Smith said "he had fully determined to adjourn conference from one Sunday to another until President Young could attend, if it had to be prolonged until next October. See minutes of conference in *Deseret News—Weekly*—of May 21st, 1872.

60. When President Young was seen on the stand it was to "the great joy of the Saints, many of whom had come from various distant parts of the Territory, that they might have the pleasure of seeing him and hearing his voice." This was his salutation: "A word to the Latter-day Saints: Good morning. (Congregation responded, "Good morning"). How do you do? (Congregation replied, "Very well"). How is your faith this morning? ("Strong in the Lord," was the response.) How do you think I look after my long confinement? (Congregation replied "First rate"). I do not rise expecting to preach a discourse or sermon, or to lengthen out remarks, but I will say a few words to you. The gospel of the Son of God is most precious. My faith is not weakened in the gospel in the least. I will answer a few of the questions that probably many would like to ask of me. Many would like to know how I have felt the past winter, and so much of the spring as is now past. I have enjoyed myself exceedingly well. I have been blessed with an opportunity to rest; and you who are acquainted with me and my public speaking can discern at once, if you listen closely to my voice, it is weak to what it used to be, and I required rest. I feel well in body and better in mind. I have no complaint to make, no fault to find, no reflections to cast, for all that has been done has been directed and over-ruled by the wisdom of Him who knows all things. As to my treatment through the winter, it has been very agreeable, very kind. My associate, my companion in tribulation [i. e. the officer detailed as his guard], I will say, has acted the gentleman as much as any man could. I have not one word, one lisp or beat of the heart to complain of him. He has been full of kindness, thoughtful, never intruding, always ready to hearken and, I think, in the future, will be perfectly willing to take the counsel of his prisoner. So much for Captain Isaac Evans. . . . I have no reflections to cast upon these courts. How much power, ability, or opportunity would I have to possess, do you think, if all were combined, to disgrace them as they have disgraced themselves? I have neither the power nor the ability, consequently I have nothing to say with regard to their conduct. It is before the world, it is before the heavens continually." (Minutes of Conference in *Deseret News* Weekly—of May 1st, 1872.

end of the afternoon session President Young closed the conference with an impressive, impromptu benediction, that, as showing the spirit and character of the man under the stress through which he had just passed, is worthy of place here:

BENEDICTION

"I bless you in the name of Jesus Christ, as Apostles, with all that pertains to you; as High Priests, as Seventies, as Elders, as Bishops, as Priests, Teachers and Deacons. I bless you in the name of the Lord Jesus Christ. I bless you, my brethren and sisters, you that are parents, also the children. I bless you as musicians, as a choir to make music for us, and those who play on instruments. And I bless you strangers, and say unto you, peace be to you, as well as to the Saints, in good words, in good actions, in a good life to serve the Lord our God. I crave blessings upon the good everywhere, among all the nations, kindreds, tongues, peoples, sects and parties, wherever the honest and the pure in heart are found. God bless them, and I say peace to you from henceforth and for ever. Amen."[61]

61. *Ibid.*

NOVEMBER, 1914

AMERICANA

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AMERICANA

November, 1914

The Colt Family

BY authentic historical records the lineage of the family of Colt is traceable to a very ancient period in both England and Scotland. In the Domesday Book, that repository of the earliest landed grants after the conquest, mention is made of the lands of Colt and Colton, as comprehended among the possessions of Earl Roger in Staffordshire; while lands in Coltune in the same county were held by Robert de Stafford. The family comprises two branches, the English and the Scotch, which, while apparently quite distinct in later times, were of identical origin. It is with the Scotch branch that we are concerned; but the English branch (under the various names of Colt, Coult, and Coutts) is always considered by genalogists in connection with the Scottish stock. The English family is at present represented by the Baronet Colt of Leominster, County Hereford.[1] This baronetcy was created March 2, 1694, its coat armor being argent, a fesse between three colts in full speed, sable. On the other hand, the distinctive feature of the shield of the Scottish branch is a stag's head. It is noteworthy, however, that the arms borne by the late Baroness Burdett-Coutts of England (a descendant of the Coutts Family, which in early times was the same as the Colt) preserve the stag's head of the Colts of Scotland, though with some modification in the treatment of the shield.

John Colt, ancestor of the Colt Family of America, sprang from the Colts "of that Ilk" of Perthshire, Scotland, descendants of *Thomas Colt* or Coutts, who in 1496 had a charter of lands in Perthshire, and who according to the family MSS. was

1. See Burke's "Dictionary of the Peerage and Baronetage."

a son of *Thomas de Coult* of Auchtercoul, Aberdeenshire. At the latter place the Colt Family held the barony of Auchtercoul.

This Thomas de Coult was the grandson of *Aleander Colt,* baron of Auchtercoul, whose estates, however, had been somewhat curtailed owing to the connection of his father, *John de Colt,* with a political episode of his times, as named in a general council held at Perth, March 26, 1392. The last-mentioned John de Colt was son of *John de Colt,* whose name appears in a charter to lands granted by King David II., bearing date of Edinburgh, June 23, 1367, and who is described by an English genealogical writer as probably descended from *William Culte de Strathawan,* who swore fealty to Edward II. in 1296 and had the lands of Strathavon, Lanarkshire, now a part of the estate of the duke of Hamilton.

From the Perthshire family of Colt "of that Ilk" sprang the Colts of Inverisk.

The arms at present borne by all families having any connection with the Colts "of that Ilk" and the Colts of Inverisk are Argent, a stag's head erased gules, between the attirings a pheon azure; crest—a dexter naked arm, embowed, holding in the hand an arrow in bend sinister, point downward, all proper; *motto—Transfigam.* These arms, empaled with Johnstone, are engraved on a cup of 1598, which belonged to Adam Colt of Inverisk, and in his son's time the same arms were empaled with those of other allied families in the wall of Inverisk House.

I

JOHN COLT, a member of the Colt Family "of that Ilk," of Perthshire, Scotland came to America in 1636 as a companion of the famous Dr. Thomas Hooker, who first ministered to a congregation at Cambridge near Boston, subsequently going to Newtown and from there to Hartford, Conn. John Colt was in Hartford as early as 1638. He was an active and prominent man in his community. In 1665 he took a leading part in raising the salary of the Presbyterian minister; he was named as appraiser in 1679 and 1680. He married, 1st, Mary Fitch, a daughter of Joseph Fitch (who was the ancestor of John Fitch,

the inventor of the first application of steam in America). His second marriage was to Ann Skinner, daughter of Mary (Loomis) Skinner. John Colt died at the age of ninety-five.

Issue: Sarah, *John,* Abraham, Joseph, Jonathan, Jabez, and Esther.

II

CAPTAIN JOHN COLT, second child of the preceding, was born at Hartford, Conn., 1658, removed to Lyme, and died January 2, 1751. Married Mary Lord.

Issue: *Benjamin,* Samuel, and three daughters.

III

DEACON BENJAMIN COLT, third child of the preceding, was born 1698, died October 4, 1754. Married, May 26, 1724, Miriam Harris.

Issue: John, Joseph, Mary, Sarah, Temperance, Harris, Polly, Sally, *Benjamin,* and Peter.

IV

COLONEL BENJAMIN COLT, ninth child of the preceding, was born 1738. He lived in Hadley, Mass. During the Revolutionary War he joined the army as lieutenant, afterward rising to the rank of colonel. He died August 30, 1781. Married, 1761, Lucretia Ely of Lyme, Conn.

Issue: Benjamin, Lucretia, Daniel, Lucretia, Ethelinda, Amy, Betsey, Lucretia, Elisha, and *Christopher.*

V

CHRISTOPHER COLT, fourth son of the preceding, was born August 30, 1780. He resided at Hartford, and was engaged in manufacturing enterprises. Died April 5, 1850.

Married, 1st, April 4, 1805, Sarah Caldwell, daughter of Major John Caldwell. Her father was for many years one of the

most prosperous and public-spirited citizens of Hartford, being president of the Hartford Bank from its organization in 1792 until 1819. Christopher Colt married, 2d, March 12, 1823, Olivia Sergeant.

Issue (by his first wife): Margaret Collier, Sarah Ann, John Caldwell, Christopher, *Samuel,* James Benjamin,[2] Mary, and Norman Knox; (by his second wife): Rev. William Upson, Mary Lucretia, and Olivia Payne.

VI

COLONEL SAMUEL COLT, fifth child of Christopher and Sarah (Caldwell) Colt, was born in Hartford, Conn., July 19, 1814. His father acquired substantial means in his manufacturing business, which, in connection with his marriage to the daughter of the wealthy merchant, Major John Caldwell, placed the family in an affluent position. But owing to heavy losses during and after the War of 1812, the fortunes of the family were swept away, and Samuel Colt was obliged to enter upon the struggle of life without advantages.

At the age of ten he entered his father's manufacturing establishment at Ware, Mass. After a brief employment there he was placed in a boarding-school at Amherst, but, having a youthful desire for adventure, at the age of thirteen shipped before the mast for Calcutta. While on this voyage he made the first rough model of the revolver, the famous invention with which his name will always be identified.

Returning home at the end of the voyage, he resumed work in the factory at Ware. While thus engaged he became much interested in the science of chemistry, of which he made a study under competent instruction. When eighteen years old he again ventured forth into the world, this time as a lecturer on nitrous oxide gas, under the name of Dr. Coult, and during the next three years he addressed audiences in almost every part of the United States. With the resources obtained in his lecturing

2. Hon. James Benjamin Colt, younger brother of Colonel Samuel Colt, was one of the distinguished public men of his times, serving as senator of the United States. He was the author of the well-known treatise, "Colt on Government," and other works.

tours he worked steadily to perfect his invention and to prepare the way for its manufacture upon a practical basis.

In 1835, having then just attained his majority, he procured a patent in Great Britain for his revolver—"a rotating cylinder containing several chambers to be discharged through a single barrel." This was followed by a similar patent in the United States in 1836, and in the latter year operations for the production of the new weapon were begun at Paterson, N. J., under the name of the Patent Arms Manufacturing Company.

For more than ten years however, the progress made was slow and uncertain. Soon after the establishment of the works at Paterson efforts were made to interest the United States government in the weapon, with the discouraging result that two boards of army officers, disliking innovations, reported against it. During the winter of 1837-8, the Seminole War being then in progress, Mr. Colt was at the scene of hostilities in Florida, where the revolver was used with great efficiency and received the endorsement of many officers of the army. Its value was also fully determined in the Texan War for independence. In 1840 an army board reported unanimously in its favor, but the demand was meagre, and in 1842 the Paterson company, unable to sustain itself longer, was forced to go out of business.

The merits of the revolver had become so well established, however, that notwithstanding the total suspension of its manufacture, an order for a thousand was given to Colonel Colt in 1847 by the government at the recommendation of General Taylor, who desired them for service in the Mexican War. To execute the contract Colonel Colt established temporary works at Whitneyville, Conn. From this time his career was one of the greatest success, hardly paralleled, indeed, in the history of American industrial enterprise. Almost instantaneously, as it seemed, the demand for his revolver became world-wide, and during the next few years the only difficulty experienced was in the creation of adequate facilities. To this end he removed his plant to Hartford in 1848. The volume of his business constantly increasing, he purchased an extensive tract in the outskirts of that city, upon which he built a mammoth establishment, the largest and best-equipped private armory at that time in the

world. "His constant aim was to reach the most perfect attainable results by the most efficient means. He called around him a body of able assistants, who caught his spirit and became enthusiastic co-workers with him. Graduates from the armory, inspired by his love of mechanical excellence, have built for themselves highly successful establishments. These men, some of whom became famous industrial chiefs, have won wealth and distinction by adhering closely to the methods of their early teacher."

Aside from the particular invention which has immortalized his name, Colonel Colt manifested original and advanced ideas, and accomplished noteworthy practical results, in various departments of inventive activity. It was characteristic of him that while a thoroughly accomplished experimentalist, his energies were devoted quite exclusively to new devices and improvements which have since proved to be of the greatest practical utility. He seems to have had the clearest prevision of the changes to be wrought by inventive genius within another generation. "In boyhood he began to experiment with submarine explosives, and foresaw the future use of the torpedo for harbor defense. Later he blew up ships in motion by electric batteries controlled from long distances. He urged upon the government the adoption of his system, but was too far ahead of the age to win official acceptance of his views. He was also the first to devise and lay a submarine electric cable, having thus, in 1843, connected New York City with stations on Fire and Coney islands." His own colossal enterprise naturally absorbed his energies in later years. To this he contemplated giving a much wider scope, and at the time of his death was preparing plans for the manufacture of cannon on a large scale.

Colonel Colt made many journeys abroad, and both as one of the celebrities of his age, and for his agreeable personal qualities, was everywhere received with marked honors. In the community where he resided, and of which, as the creator of a gigantic industry, he was one of the most conspicuous benefactors, he was held in affection and esteem.

He died at his residence, "Armsmear," Hartford, January 10, 1862.

Colonel Colt married, June 5, 1856, Elizabeth H. Jarvis, eldest daughter of Rev. William and Elizabeth Miller (Hart) Jarvis of Middletown, Conn. Of this union four children were born, two sons and two daughters, of whom only one, *Caldwell Hart Colt,* survived to mature life.

VII

CALDWELL HART COLT, son of Colonel Samuel and Elizabeth H. (Jarvis) Colt, was born in Hartford, Conn., November 24, 1858. He was educated in part under private tutors, at St. Paul's School, Concord, N. H., and at the Sheffield Scientific School of Yale University.

Mr. Colt was best known as a yachtsman. In 1888 he was elected vice-commodore of the New York Yacht Club, and in 1892 commodore of the Larchmont Yacht Club, being re-elected to the latter position in 1893. He was also a member of the Eastern, St. Augustine, and Biscayne Bay Yacht clubs, and an honorary member of several European yachting organizations.

He died at Punta Gorda, Fla., January 21, 1894.

THE JARVIS FAMILY

ANCESTRY OF MRS. SAMUEL COLT

The American and British families of Jarvis, Jarvice, Jervis, etc., are all descended from Norman-French ancestry, the original forms of the name having been Gervais and Gervasius. The name Gervasius is traceable in Normandy to as early a period as 1180. According to the "*Dictionnaire de la Noblesse de France,*" the Gervais Family is found established in Brittany about 1400, bearing arms which are thus described: "*D'or, et une pomme de pin, placée au canton dextre chef; et un chouettè placée au canton sénestre accompagnée en pointe d'un crapaud, le tout de sable.*" The great variety of modifications in the orthography of the name since ancient times is indicated in the following extract from the well-known authority, "Patronymica Britannica": "Jervis, Jervies, Jervoys, Jervoise, Jarveis, Ger-

vaise, Gervays, Gerveis, Garveys, Gareis, Jarvis, Jervies, Jarvie, Jarvice, Gervase, Gervais, Gervasius, Gervys, are supposed to be one and the same name."

The titled aristocracy of England includes still existing families of the name Jervis or Jervoise, conspicuous amongst these being the viscounts of St. Vincent (whose patronymic is Jervis), resident at Meaford, County Stafford. Chief of the heads of this noble house was Admiral John Jervis (1734-1823), one of the most illustrious naval commanders of history, who was created Baron Jervis, Earl St. Vincent, and Viscount St. Vincent, and was buried in Westminster Abbey. During a cruise to America while a subaltern officer, his ship was anchored off Norwalk, Conn., at that time (as we shall see) the home of the principal Jarvis family of this country, to whom he took occasion to send greeting as his near kinsmen. The Jervis Family of County Stafford has been one of consideration from a remote antiquity.

The armorial bearings generally claimed by the Jarvises of the United States have for their motto "*Adversis Major, par Secundis.*"

The late Mrs. Elizabeth Hart (Jarvis) Colt of "Armsmear," Hartford, Conn., widow of Colonel Samuel Colt, was descended in the fifth generation from William Jarvis of Huntington, Long Island. The Jarvis Family in this line is notable for its profound patriotic, moral, and religious spirit. The father of Mrs. Colt, Rev. William Jarvis, was a highly-esteemed clergyman in Connecticut; and he was a nephew of the famous Dr. Abraham Jarvis, second (Episcopal) bishop of Connecticut, and a cousin of Rev. Samuel Farmar Jarvis, S.T.D., LL.D., one of the distinguished divines and scholars of his times.

I

WILLIAM JARVIS, the American progenitor of this line, was resident at Huntington, Long Island, where he died about 1740. It is supposed that he came thither from New England, where traces of the Jarvis Family are observable from an early period of the seventeenth century. At Huntington the first rec-

ord of the name Jarvis appears in the year 1666. William Jarvis was a highly substantial citizen and large landowner of that place, as evidenced by the bequests in his will (dated November 12, 1737).

Issue by his wife Esther: William, *Samuel,* Stephen, Abraham, and Mary.

II

CAPTAIN SAMUEL JARVIS, second child of William and Esther Jarvis, was born at Huntington, Long Island, October 5, 1698, and removed to Norwalk, Conn., where the remainder of his life was spent. Died September 27, 1779.

Married Naomi Brush of Cold Spring, Long Island (who was born March 19, 1701, and died May 3, 1756).

Issue: Samuel, Elizabeth, John, Esther, Stephen, Isaac, Naomi, Nathan, Abraham, Polly, and *Hezekiah.*

III

HEZEKIAH JARVIS, eleventh and youngest child of Captain Samuel and Naomi (Brush) Jarvis, was born at Norwalk, Conn., July 17, 1746. He was a lifelong resident of that place, and one of its most honored citizens. "He possessed in an eminent degree," says a biographical writer, "the traits of his distinguished brother the bishop. In every relation of life he was the sincere and devoted Christian gentleman. He had a fine and discriminating mind and an excellent memory; a man of much reading, he was a ready reasoner, a pleasant and cheerful companion. He lived to a patriarchal age, seeing the children of the third and even the fourth generation." Died April 4, 1838.

Married, 1st, October 9, 1767, Mary Nash (born June, 1748, died May 26, 1778); married, 2d, Mrs. Sarah (Whitney) Nash. She was a member of the Whitney Family of Darien, Conn. Her father lived to the age of one hundred years, three months, and three days—her husband, Hezekiah Jarvis having died in his ninety-second year.

Issue (by first wife): Noah, Abraham, Elijah, Stephen, and

James; (by second wife): Samuel, Abram, Sarah, Charles, Lavinia, Amelia, Mary, and *William*.

[An elder brother of Hezekiah Jarvis was the eminent

Bishop Abraham Jarvis (b. at Norwalk, Conn., May 5 [o. s.], 1739, d. at New Haven, May 3, 1819). He was graduated from Yale in 1761, and after leaving college began preparation for entering the ministry of the Episcopalian Church. Some time was spent at Elizabethtown, N. J., whither he went to be inoculated against the smallpox, and where he was an inmate of the family of the celebrated Dr. Chandler. He went to England to take holy orders, and there received deacon's orders from Dr. Kepper, bishop of Exeter, and priest's orders from Dr. Lyttleton, bishop of Carlisle. Returning to America, he was settled as rector of Christ Church at Middletown (August, 1764). In May, 1796, he was elected bishop of Connecticut to succeed Bishop Seabury, an office in which he was consecrated at Trinity Church New York, on the 18th of October, 1797. His episcopate, lasting for nearly sixteen years, covered the period of the greatest depression and discouragement in the church, during which those who had clung to it in the troublous times of the Revolution passed away, and, on account of prejudices, there were few to take their places. His body is buried in Trinity Church, New Haven, where his memory is perpetuated by a beautiful mural monument (with an elaborate Latin inscription), erected by his son.

Bishop Jarvis was twice married, his first wife being Ann, daughter of Samuel Farmar, a wealthy merchant of New York. He had one child who survived, Rev. Samuel Farmar Jarvis, S. T. D., LL.D. (see IV.).]

IV

REV. WILLIAM JARVIS, thirteenth and youngest child of Hezekiah Jarvis, was born in Norwalk, Conn., February 29, 1796. An intimate union and affection existed between his father's family and that of his uncle, Bishop Jarvis; and the latter's son, Samuel Farmar Jarvis, offered to fit the lad for college and for his chosen career of clergyman. He was graduated from

Union College (Schenectady, N. Y.), subsequently pursuing ministerial studies at New Haven. In August, 1822, he was ordained deacon at Norwalk by Bishop Brownell, and in November following was ordained priest by the same divine at East Haddam. He began his ministerial work at the latter place, but soon afterward removed to Hebron. At the latter place he formed an intimate friendship with Dr. Peters, afterward governor of Connecticut, which continued throughout life.

From Hebron Mr. Jarvis went to Chatham, now Portland, Conn., where he ministered as rector of Trinity Church until obliged to resign, in consequence of a severe attack of bronchitis, which deprived him of the use of his voice. Retiring from the ministry, he devoted the remainder of his years to his family, residing for a time in Middletown, and afterward in Hartford.

It has been said of Mr. Jarvis that "As a preacher he was fervent and impressive, both his delivery and voice being good; as a pastor he was distinguished for fidelity and devotion; as a friend he was faithful and generous, and as a husband kind, wise, and affectionate."

He died at Hartford, Conn., October 3, 1871.

Married, December 22, 1825, Elizabeth Miller Hart (born June 23, 1798, died June, 1881), daughter of Richard William and Elizabeth Hart of Saybrook, Conn.

Issue:

1. *Elizabeth Hart Jarvis.* M. Colonel Samuel Colt.
2. Hetty Hart Jarvis, m. Cyprian Nicholas Beach.
3. Richard William Hart Jarvis.
4. Frances Amelia Jarvis.
5. Frederica Augusta Jarvis.
6. Mary Louisa Jarvis. M. Rev. Frederick Fitz Gerald.
7. John Samuel Jarvis.
8. William Kempner Jarvis.
9. Edward Buckingham Jarvis.

[Of the fourth generation of the Jarvis Family from the ancestor William, another prominent member was

Rev. Samuel Farmar Jarvis, S.T.D., LL.D., son of Bishop Abraham Jarvis and cousin of Rev. William Jarvis. He was b.

January 10, 1786, and d. March 26, 1851. He was at various times professor in the General Theological Seminary and Trinity College; rector of St. Paul's Church, Boston; rector of Christ Church, Middletown; historiographer of the Protestant Episcopal Church, and secretary and treasurer of the Christian Knowledge Society. He was also a theological writer of distinction. His private library was one of the most notable in America.]

V

ELIZABETH HART JARVIS, eldest child of Rev. William and Elizabeth Miller (Hart) Jarvis, was born in Saybrook, Conn., October 5, 1826. She was married by Bishop Brownell, June 5, 1856, to Colonel Samuel Colt of Hartford, Conn.

Mrs. Colt, after her husband's death, continued to reside in the beautiful home, "Armsmear," built by him at Hartford. In memory of her husband she erected in that city the Church of the Good Shepherd, and as a memorial to her son a costly parish house, "designed to further the physical, mental, moral, and spiritual well-being of members of the parish, and of all others who may choose to avail themselves of its privileges."

She died August, 1905. By her will she left the grounds of "Armsmear" to the city of Hartford for a public park, the mansion to become a home for widows and orphans of Protestant Episcopal clergymen. A fund of $800,000 was set apart for the maintenance of the Church of the Good Shepherd, the Memorial Parish House, the Caldwell H. Colt Memorial, and "Armsmear." Her art treasures, with a trust fund of $50,000, were bequeathed to the Wadsworth Athenæum.

Early History of Medicine in New York

PART I

THE annals of the earlier years following the coming of Peter Minuit as governor afford but little material for history as regards the exact status during that time. A mere trading post which, in 1628, four years after the nominal establishment of the Dutch authority, numbered only two hundred and seventy souls, Walloons and slaves included, was, of necessity, not rich in transactions and events. The old world was reaching out with its pioneers and hardy men of all classes seeking a foothold. With nothing to attract from their far-distant homes any save those who were intent upon trade, and whose ambition it was to reap a fortune and assume title to immovable property, a shore and a haven were found amid copper-hued clans with more symmetry than brawn of muscle. Revenue, immediate and prospective, was the consideration with the colonists of that day, and religion, education and science must needs wait for a more convenient time. The picket lines of diverse great civilizations were nearing each other, trading commodities, but on the alert for war. The Teuton with his equipments was halting the Goth with his extravagant freedom, while the Celt was making more tolerable his existence as an adjuster of surroundings. The first meetings under truce flags were shocks, and the last arbitraments and wars were closed by the destruction of evidence. The past was nursing reminiscences and the future was dissolving in hopes. Power was nearing its focus of general adaptability, while the multitude was contributing its quota of means. Trade growing into commerce was diminishing the friction of civilization, for newer adaptations were coming into vogue, and there was less of the peace of desolation. Society may have been coarse, but it had

the tone of fair dealing, and was especially efficient when duty and inclination ran in the same line. As on shipboard, there was much whirling movement, but not a deal of velocity or force, since the West India Company, although endowed with ample powers, had no prerogatives for protecting their own interests or those of their subordinates. The colonies which were planted were feeble, and their tents were virtually clusters of hermitages with self-defending inmates. There were leaders, but without an adequate following—a resourceless community without coherence, impoverished by the feuds of Europe and thoroughly won by the logic that strategy was better than force.

These conditions were gradually changing. The pioneers of the future city with its snug harbor had become home-builders rescuing its shores from the water, and primitive architects from above downwards, and too loth to spoil trade by empty quarrels. They exercised a broad hospitality in their interior life, and even allowed their native tongue to be corrupted into a jargon for the sake of peace in the heterogeneous population. In the haze of their hearthstones, larders, scoured floors and downy beds, they could afford to abide the coming of any stormy doom. Rugs, silks and jewels from the orient could well tone down the anxious watching for arrivals of their most seaworthy ships. Rescued marshes, gravelled pathways and miniature lawns had contributed to their prosperity and health. What need, then, for explanations of patriotism?

In 1652, when the population of New Amsterdam was presumably about 1,000, it would appear that the people not altogether depended upon the shipping in the harbor, but that some surgeons took up their residence upon the island, for, in February of that year, "on the petition of the Chirurgeons of New Amsterdam, none but they be allowed to shave, the Director-General and Council understanding that shaving doth not appertain exclusively to Chirurgery, but is an appendix thereunto: that no man can be prevented operating on himself, nor to do another this friendly act, provided it be through courtesy and not for gain, which is hereby forbidden." It was furthermore ordered that "Ship Barbers shall not be allowed to dress any wounds nor administer any potions on shore without the previous knowl-

edge and special consent of the Petitioners, or at least of Dr. Johannes La Montagne."

The foregoing somewhat of a license with an amusing shading is taken from a compilation made some years ago by E. B. O'Callaghan, LL.D., entitled "Register of New Netherlands, 1626-74." This curious fragment saved from an unimportant oblivion affords no information, save by inference, regarding the mere professional attainments, but does show the Chirurgeon in one of his evolutionary stages—that of a hand-worker with edged tools. Of greater interest, however, is the fact that in the petition of the practitioners of New Amsterdam is to be found the germ of the mutually protective medical association of the present day, and in the order of the Director-General and the Council, issued in conformity with the prayer of this embryotic body, we have the first legal provision affecting the practice of medicine in what is now the City and State of New York, and, probably, the first in America. The old war between supply and demand as exemplified between wares and fees, or, as the journalist might express it, as the skirmishes between the storekeeper and the push cart vendor was a contention begun.

The "Register" to which reference has been made indicates that prior to 1638 Tryn Jansen, according to the Holland usage, was licensed as a midwife. This woman was the mother of Annetje Jans, who became the wife of the Rev. Everardus Bogardus. The marriage in question for about a century and a half occasioned much disquietude among numerous descendants through the female line regarding the Trinity Church lands and other realty. The only result has been the direct revenue of legal fees and the authoritative statement that the case has been thrown out of the courts forever, the consolation being undisputed possession and a very precise genealogy. Midwives were duly licensed in succeeding years, and in 1716, according to Gowan's "Western Memorabilia," a law was passed for their regulation. They were sworn "to be faithful in their service, to commit no frauds in changing children, nor to be accessory to pretended deliveries, nor to assist in any frauds or concealments of births, and above all never to speak of the secrets of their office." This is presumably the first legislation in New

York upon the subject, or, in brief, the genesis of an ethical code, succinct but comprehensive.

Among the ship's surgeons or chirurgeons who came in the time of Governor Minuit were Harman Myndertz Van den Bogart and William Deeping, both of whom presumably made professional shore visits. Dr. Bogart was surgeon of the Dutch ship "Eendraght," which arrived May 24, 1630, and he remained with her until 1633. In 1638 he sailed for the West Indies, and the last report of him was to the effect that about 1647 he was burned by the Indians in the Mohawk Valley.

In 1658, ten years after Peter Stuyvesant arrived as Director-General of a cluster of wooden houses fenced in by a stockade, the only "surgeons" in New Amsterdam were Hans Kierstede, Jacob Hendricksen Verrevanger and Jacob L'Oragne, and these were, it is to be inferred, the parties upon whose petition the Directors and Council made their order against "ship-barbers."

The most conspicuous of these resident practitioners was this Dr. Hans Kierstede, a native of Saxony, born in Magdeburg, who came to New Amsterdam in 1638 with Governor William Kieft, otherwise "William the Testy," that "brisk, waspish little old gentleman," dried and withered, of whom Washington Irving drew a vivid picture of kaleidoscopic force. Humor, however, is not always history, and the proper dignity of his office may not have been respected. In 1647 Governor Kieft was superseded by Governor Peter Stuyvesant, but, before going into retirement, he made to his friend and protege, Dr. Kierstede, a grant of land on what was then known as "The Strand," the present Pearl street, and in 1653 and 1656 Dr. Kierstede became possessed of additional lands under grants made by the successor of his patron. In 1642, four years after his coming to New Amsterdam, Dr. Kierstede married Sara Roelofs, a daughter of Anneke Jans. Her father had been of great service to the Dutch authorities in the capacity of interpreter between them and the Indians in their land bartering and other transactions, and, out of this consideration, she was granted a tract of land on what is now the west side of Broadway, between Reade and Duane streets, so that the couple began their married life as extensive land owners. Dr. Kierstede died in 1666. He was the

father of ten children, from whom descended a numerous progeny, among them many who entered the medical profession. General Henry T. Kierstede, a great-great-grandson of Dr. Hans Kierstede, became a druggist on Broadway, in New York City, and was famous for his "Kiersted Ointment," prepared from a recipe handed down by his remote ancestor, and the secret of which has been jealously preserved in the family to the present day. Christopher Kierstede, an alumnus of Albany Medical College, 1846, also a descendant of Dr. Hans Kierstede, died at his home in Jersey City, N. J., January 23, 1903, aged 81 years, after having been in practice in New York and vicinity for over half a century. Thus the family name was a household word in medicine for over three hundred years.

Contemporary with Dr. Hans Kierstede, and coming the same year, were the two "surgeons," Gerritt Schutt and Pieter Van der Linde. The latter named was a native of Flanders, and brought with him his wife, Elsje. Van der Linde gave advice to applicants, as appears from a claim for surgeon's fees which is preserved in the State archives in Albany. But, like the all-around men of his day, medicine was but one, and perhaps the least, of his accomplishments, for, in 1648, he was temporarily teacher of the first school in New Amsterdam, which was opened in 1633, and of which the School of the Collegiate Reformed Church in New York City, at West Seventy-seventh street, is the descendant and successor. He was also clerk of the church, and at one time he was tobacco inspector.

Jacob Hendricksen Varrevanger, second on the list of resident physicians in New Amsterdam, according to O'Callaghan's "Register," came in 1646, in the service of the Dutch West India Company, with which he remained for sixteen years. After he had been employed for eight years, he complained that he had imported from Holland all his "medicaments" and asked for compensation, whereupon he was at once credited with a certain amount and his salary increased.

Dr. Varrevanger is besides justly deserving of fame as the projector of the first hospital established within the territory of what is now the United States. It had been the custom of the Dutch authorities to billet sick "soldiers," and even sick ne-

groes, upon the inhabitants. To remedy this rapidly growing encroachment upon domestic rights, and, at the same time, to afford more suitable treatment to the suffering, Dr. Varrevanger asked that suitable buildings be bought or hired for hospital purposes. Regarding the character of the buildings there is an absolute dearth of information, but it is of record that in 1680 "the Old Hospital of the Five Houses" was bought for two hundred pounds, in order that more ample and serviceable accommodations might be provided. It is also deserving of notice that, in the first year of the hospital, Hilletje Wilburch was appointed to the position of matron.

As a by-path in local history it may be mentioned that Dutch surgeons also were to be found at various trading posts outside Manhattan. In 1638 Jan Petersen, surgeon (Barbier), was at South River, with a monthly stipend of ten florins. Abraham Staats was a surgeon who came to Rensselaerwyck in 1642, but medicine was evidently a secondary pursuit with him, for he was carrying on a large fur trade with New Amsterdam and sailed a sloop between Fort Orange (Albany) and that point. By his marriage with Katarina Jochemsen he was the father of numerous children, among whom were Jacob and Samuel, who in time became well-known physicians. In connecticut, also, appears evidence of one, at least, who practiced the healing art, for in 1663 a supply of drugs was sent from Holland for a clergyman "versed in the art of Physick and willing to serve in the capacity of Physician." This is taken to refer to the Rev. William Leverich, who figured conspicuously in the colonization of Connecticut and Long Island.

As we have seen, Dr. La Montagne was invested with a more ample authority than any board of health or corps of medical examiners of the present day. Of an ancient and noble French family, he was a Huguenot refugee of more than the usual attainments. He was a graduate of the famed University of Leyden and came to New Amsterdam in 1636, and at once rose to a position of leadership among his fellows, and more especially in the executive councils of the government. Thus, in 1643, when, through his utter want of tact if not real turpitude, Governor Kieft became involved in war with the Indians, he gladly com-

mitted to La Montagne the command of his little army of defense—estimated to be some 300 men—of whom only fifty were soldiers, while the remainder were the haphazard volunteer residents of the town. It is presumable that the statement that Montagne "was the only doctor in Manhattan in whom the settlers had any confidence," was in a personal rather than in a professional sense, since his immersion in public matters allowed but little attention even to the plainest sanitary requirements. Otherwise there was no great necessity, for even at that early period complaints were rife of surplusage in the supply of medical attendants and the population had not as yet reached fifteen hundred.

That La Montagne held such intimate relations to the Governor, who was of a different nationality, and, withal, exceedingly self-willed, conceited and arrogant, is abundant proof of ability, sagacity and integrity. His position certainly afforded him a large influence, but his indispensability was as largely due to his personality as to the power of which he was, in a degree, more than the representative. It would appear, too, that he enjoyed alike the confidence of his official superior and the loyal obedience of his fellow townsmen. Thus it is to be conceded that La Montagne served as a buffer between the irascible Governor and the hysterical people. He might even have been a varied type of the missionary exchanging moral theories as commodities among half-civilized tribes. Still further it may have been the fortune of the colony that the hour may have met the man.

In 1664 William Nichols established the English supremacy, and with his coming was inaugurated a new system, and it was at the dawn of a new era in speculative science as well as in both colonization and commercialism. Medicine was then attempting its divorcement from charlatanry and necromancy, for general laws were drifting towards the study of probabilities. But a few years before, if the lifetime of an edition be counted, Robert Burton had published his "Anatomy of Melancholy," a quaint production, dated 1621, which epitomized much of the knowledge of the day, and which has been described as a heterogeneous melange susceptible of many interpretations. This contained much occult lore applicable to many emergencies, a rare

mixture of rambling reflections and odd quotations. Scholar as Burton was, he was among the credulous who could suspect a symbolism in every form or sequence. The frontispiece of his work was a display of the zodiacal signs, along with a self-made calculation of his own nativity. In this he drew a word picture of the healer of the day:

"About him pots and glasses lies,
Newly bought from Apothecary,
Borage and Hellebor fill two scenes—
Sovereign plants to purge the veins
Of melancholy, and cheer the heart
Of those black fumes which make it smart;
To clear the brain of misty fogs
Which dull our senses and soul clogs—
The best medicine that e'er God made
For this malady, if well essay'd."

According to the delightful old pedant, the impulsive cause of miseries in man was the sin of Adam, the first parent, and the instrumental causes of human infirmities were the stars, the heavens and the elements. With curious disregard of logical reasoning, bodily sickness was due to the vices of ancestry "and our own intemperance," and yet was meant for the soul's health. "Pharmaceutice, the physic which apothecaries make, mingle and sell in the shops, many cavil at, and hold it unnecessary, because those countries which use it least live longest. Many are overthrown by preposterous use of it, and some think physics kill as many as they save, and who can tell?" Some ailments Burton pronounced incurable, such as apoplexy, epilepsy, stone, stranguary, gout and agues. Yet he declares medicine "a divine science," and says that to its purposes it brings eight hundred simples, or herbs, among them tobacco, "divine, rare, superexcellent, which goes far beyond all the panaceas, a sovereign remedy to all diseases—a good vomit, a virtuous herb, if opportunely taken and medicinally used, but, as taken by most men, a plague, or mischief, hellish and damned, the ruin and overthrow of body and soul." Having thus paved the way for the Thompsonian practitioner of a far later day, this same old author gives license for the use of gold, and commends mercury, while he recognizes "blood letting, cupping glasses, horse-leeches, cauterization by means of a hot poker and blistering plasters."

For the sake of a fuller appreciation of the surroundings it may be related that Penelope Van Princis, who became the wife of Richard Stout, a merchant of New Amsterdam, came from her home in Holland about 1620, when she was eighteen years of age. At the foot of the Navesinks of New Jersey—the "highlands between the waters"—her vessel was thrown helpless upon the coast. A few survivors who reached land were attacked by Indians, who perhaps bitterly remembered Hudson's visit but a few years before. All the shipwrecked people were killed save Penelope, who, wounded and mutilated, crept into a hollow tree, where she lived for several days, eating the fungi which grew about its trunk. She was found by a party of Indian hunters. An old Indian prevented them from killing her, and carrying her to his wigwam, he healed her dangerous wounds. She was kindly treated and finally taken to New Amsterdam and restored to her countrymen as an "Indian present."

The Indian medicine man who healed the wounds of Penelope Stout was as skillful in his materia medica as the generality of his contemporaries of London and Paris, and he was not more superstitious, and far less dangerous. The London physician juggled with words—Latin and Greek—and his audience in their ignorance were awed; the Indian, by magical tricks and terror, maintained his power over his followers. Both depended really upon herbs, and both added to them hideous, nauseating, filthy, useless things. The London physician used crab's eyes, frog's spawn, filings from the human skull, powder from dog's lice, earthworms, viper's flesh, etc., etc. To stop a nose-bleed, fumes from burnt feathers, hair, old hats, horns, hoofs, leather, old woolen clothes, were used, or human blood or liver, dried toads or vipers, etc., "from all of which the blood precipitately flies, as from its greatest enemy." The foregoing, and much more of like nature, is taken from "The Practice of Physick; or Dr. Sydenham's Processus Integri, Translated out of the Latin into English, with large Annotations, Animadversions and Practical Observations on the same," by William Salmon, M. D. Charms were prescribed, such as eagle's stones (a variety of oxide of iron found in small ovoid masses), worn upon the arm, for inflammation of the eyes. Such were some of the hideous things

that were recommended as palliatives and specifics by some who deemed themselves the scientific physicians of the old world in the seventeenth century to our forefathers.

When George Fox visited Shrewsbury, New Jersey, in 1670, he was accompanied by "John Jay, a friend, of Barbadoes, who came with us from Rhode Island," who was thrown from a runaway horse and his neck supposed to have been broken. Fox, by "pulling his friend's hair found the neck very limber." Then, he says, "I put one hand under his chin and the other behind his head and raised his head two or three times with all my strength and brought it in. I soon perceived his neck began to grow stiff again, and then he began to rattle in his throat and quietly after to breathe. The people were amazed, but I bade them to have a good heart, be of good faith and carry him into the house." In a few days he recovered and traveled many hundred miles with Fox. To all present this seemed a miracle, for none understood the real traumatic or pathological conditions of the case. The majority of those calling themselves surgeons would have known little more at that time. Macaulay unjustly despised George Fox for pretending to perform miracles, and painted him a ruder and more ignorant man than he really was.

But there were those who had caught a gleam of the great light which science was soon to shed over the earth. They had pursued their studies in chemistry and physiology, and their investigations were leading them into proper paths. In these forward movements America was destined to bear an honorable and useful part, for to her shores came men of ability and laudable ambition. Prominent among them was Cadwallader Colden, a native of Scotland, who was one of the earliest authors upon certain contagious diseases and sanitation, and who would have undoubtedly risen to high eminence in the medical profession had he devoted himself altogether to it. He was the son of an eminent Scotch clergyman, the Rev. Alexander Colden, and was educated in the University of Edinburgh. He came to America in 1708, when twenty years of age, and located in Philadelphia, where he built up a large practice. In 1718 he removed to New York city, which became the scene of his most active and useful effort. In 1735 he wrote a treatise on "The Sore Throat Dis-

temper," and, in later years, papers on "The Virtues of the Great Water Dock" and "Observations on the Yellow Fever of New York, 1741-42." In that last mentioned he anticipated much of what has been written in comparatively recent years in ascribing epidemic diseases, in large measure, to unsanitary conditions. His worth as an investigator in scientific channels is evidenced by his correspondence with Benjamin Franklin, the Swedish naturalist Linnaeus, and the German philologist and antiquarian, Gronovius. He was the first in America to give methodical attention to native botany, and he collected nearly four hundred plant specimens, which were catalogued by Linnaeus in his "Acta Upsaliensia." What with science and politics, Dr. Colden had little time to devote to medical practice. He was the first surveyor-general of New York, and from 1761 to 1775 he was Lieutenant-Governor of the province. Many of his political and philosophical papers are preserved by the New York Historical Society, and much use was made of them by the historian, Bancroft.

Dr. John Nicoll was a practitioner in New York for about fifty years, and was also an apothecary. He also was addicted to public affairs, and suffered the displeasure of Governor Leisler, by whom he was imprisoned. But time brought him his revenge, for he became the presiding judge at the trial of Leisler, who was brought to death. Dr. Nicoll died about 1744, and his estate was administered upon by a fellow-practitioner, Dr. Isaac Dubois, a graduate of the Leyden University, and who succeeded to his apothecary business on Hanover Square. Dr. Dubois, however, died less than two years afterward, November 9, 1745.

About 1740 came together three physicians—James Magrath, Thomas Rodman and John Brett—none of whom left any particular impression save him first named, who was the father of American hydropathists, and who, for more than forty years, with peculiar originality and forcefulness, advocated the use of cold water for the treatment of all manner of diseases.

Dr. John Bard, (1716-1799) was a practitioner whose service was peculiarly useful. He was of Huguenot ancestry, born in Burlington, New Jersey, in 1716. When a lad he became an apprentice student to Dr. Kearseley, of Philadelphia, with whom he

remained for three years. He entered upon practice in Philadelphia in 1737, having just attained his majority. In 1747 he removed to New York and established the first quarantine station there, having effected the purchase of Bedloe's Island for that purpose. He magnified his office and was somewhat vain, affecting a dress and equipage which attracted marked attention; a red coat and a cocked hat, and he carried a gold-headed cane and drove about in a stylish phaeton. But he displayed rare skillfulness in his profession, and was deeply conscientious in the discharge of his duties. In 1795, when the majority of the physicians fled the city on account of ravages of yellow fever, he labored assiduously to relieve the disease-stricken people. He busied himself in his profession until he was upward of eighty years of age. He was something of a litterateur, and an industrious writer, but was rather averse to publication. In 1749 he read an essay before a society in New York on the nature of the malignant pleurisy then prevailing on Long Island. He reported a case of extra-uterine foetation treated by section in 1759, which was the first recorded case in this country, and which appeared in the London *Medical Observations and Inquiries.* He likewise contributed several papers on yellow fever in the *Medical and Philosophical Register,* and in 1788 he became the first president of the Medical Society of New York.

For Conscience Sake"

BY CORNELIA MITCHELL PARSONS

CHAPTER III

The American Jezebel; and Massacre

"The Anabaptists are moderate kind of men, stirred up by the devil to the destruction of the Gospel."

"Souls made of fire, and children of the sun,
With whom revenge is virtue."

—Young.

MISTRESS ANNE HUTCHINSON was the daughter of Mistress Frances Marbury, of Lincolnshire. She, with her husband and little family, being banished from cruel England by Archbishop Lord for non-conformity, sought the shores of the New World and arrived in Boston, September eighteenth, 1634. Her brother-in-law, the Rev. John Wheelwright, and family, followed her in May, 1636. As Mr. Cotton was a friend of the family in Old England, the Hutchinsons wished to enjoy his ministrations. They were admitted as members in the church in 1634. The Rev. Symmes, minister to the church at Charlestown, having crossed the seas with the Hutchinsons, was a little afraid of Mistress Anne's new, and unorthodox views. Notwithstanding these, New England learned at first to hold her in high esteem, finding she could minister to the body, mind and spirit.

Many women attended the lectures, given twice weekly, which were held at her house. They would discuss the last sermon of their old friend and pastor, Cotton Mather. The Governor, Sir Henry Vane, attended many of her meetings. Mistress Anne Hutchinson did not believe in infant baptism. She was really a

Mennonite. To these remarkable people William, Prince of Orange, had been most kind, and thousands crossed the North Sea and went to the eastern counties of England. They believed in soul liberty, the divorce of the Church from civil power, loyalty to the commands of Christ. An Anabaptist meant one rebaptized.

The Massachusetts Bay Colony could not stand these doctrines, and Anne Hutchinson, with most of her family, was driven from the colony and went to "Ann Hook"* in Westchester, there to find liberty of conscience.

It was early candle light and Mistress Anne Hutchinson, sitting in the low-ceiled room, held an open parchment in her hand. She was surrounded by her sons and daughters, but seemed to see no one as she perused the closely written page. The new home, what is now Pelham Manor, then called Ann Hook after its Mistress, was built of rough logs. Vast forests stretched away on all sides. Nothing disturbed the stillness but the hoot of some owl on a nearby tree, or the curious chirp of a cricket giving warning of the coming autumn.

"How glad I am, my dear Mother, that Master Throgmorton and the other thirty-five Friends are not far distant."

"Yes, truly, daughter, we are in the Lord's hands; 'he knoweth such as are His, and the hairs of our heads are all numbered.'

I have but just concluded the reading of the kind epistle from my dear friend and follower, Lady Deborah Moody. She is not far distant and some stray post-boy may now and then bring me greetings from her dear hand."

"How is Mistress Frances, is she enjoying the new life among the Dutch at Gravesend?" one of the elder girls asked.

"Yes, of a truth, but Lady Moody speaketh only of their daily life, the recent Indian outbreak, and the visit of our dear friend, Reverend Mr. Williams. He will soon return to Old England, to talk over many matters relating to Providence Plantation, and his late troubles there."

"Brother Francis was dismissed from the Church, dear Mother, in Boston town. Was it not sorrowful?"

"Poor lad," she murmured sadly, "he had to suffer for his Mother's sake. Your father believed in me. He called me a

*Note.—Now known as Pelham Manor.

dear servant of God, and sometime I shall see him again; it may be sooner than I dream. I am so weary of the battle for Conscience sake. Children, I am fifty years old to-day."

"Your birthday, dearest Mother," exclaimed all, "we must have a cake and a posset of elderberry wine."

"It cannot be a gay banquet; I miss your dear father more and more. Soon Mistress Mary Dyer may join us, if she be not sentenced as a witch, and be hanged or burnt. Samuel hath promised to write me about her, and our brother Philip may join us later on."

"My Mother," broke in little Abigail, "I sometimes have great fear of the red men, and their sharp knife. Are we safer here, Mother, than in Massachusetts Bay Colony?"

"Perhaps safer, child," and Anne Hutchinson bent over her youngest, and smoothed the brown hair down over her low, broad forehead. " 'Fear not, little flock,' the Reverend Mr. Williams saith; so say I the same to you all. He has ever been a friend to the Indians. Nishokan, the Chief, warned him very often, when in grave danger, and, as we are his friends, they may send us a message in our hour of need."

"Has the Worshipful Mr. Williams sailed yet, my Mother?" asked one of the boys.

"Alack, he only has been gone four weeks. Gov. Winthrop refused permission for him to sail from Boston town, so he came to New Amsterdam, where the Dutch gave him safe passport. It was relating to that matter that Lady Deborah Moody wrote. In a year's time he will return, with a new patent or charter, for Providence Plantation. Our dear friend, Sir Henry Vane, is a warm friend of both Reverend Mr. Williams and ourselves, and will be of service to him in Old England. Milton, too, was a friend at Court, being on Oliver Cromwell's side.

Lady Deborah writes that they had a goodly meeting at her dwelling, and several pair were joined in matrimony. The good Doctor is a true friend, as I have said, of the red men, and asked that they should have their rights. The Iroquis tribes, they say, are trying to collect tribute from Westchester and the river tribes. Many of the red men who have been our friends these past few weeks have taken refuge with Master De Vries at

his plantation and also at Corloer's Hoeck on East River. Director Kieft had determined to punish the Hockensach tribes for shooting the Dutch Colonel on Von der Horsts plantation. He hath demanded the Indian, who did the deed, the pachem, chief of the Tonkelches. Director Kieft hath declared that 'He will make the Indians wipe their chops.' The fighting not far away hath been terrible of late, but perchance, we may expect more peaceful times. Lady Moody writes that they have had many fights with the tribes, and have been even in danger of their lives. The Dutch at Corloer's Hoeck killed forty Indians, and at New Amersfoort the inhabitants have made war against the Mahrechaweerks. Eleven tribes have sworn to fight against the Whites; the Wickquaesgrechs have joined the upper tribes and we know not what to expect."

Mistress Anne Hutchinson shuddered, as she glanced quickly at her family gathered around her. "You, Mary, sit you down child, and finish the day's stint; the time is none too long for work which must be done by the early Autumn. The crickets have given us warning."

Mistress Hutchinson straightened a lawn kerchief at her neck. Under the pointed stomacher and gown, the folds of which were of some soft, clinging stuff, could be seen the bunch of keys and large pocket which she wore at the side. Her face, lighted by the Spirit within; her eyes, large and brilliant, seemed to be gazing into another world. The supper things were washed and dried, being placed in rows on the white shelves, and the candle-light casting strange shadows, made the pewter look like silver in the uncertain glow. The night had grown dark and sultry. Just outside the door, glow-worms, carrying their tiny torches, could be seen now here, now there. All was so strangely still. Even the chirp of the crickets became hushed. A gray mist was rising from the ground, and hung suspended like a shroud. A chestnut burr loosened from its hold on the branch dropped to the ground. The slight noise made Mistress Hutchinson start. Her thoughts had been wool gathering, and far away from the little house in the forest. The voice of her youngest child had not reached her ear, and the child repeated,

"Will the Dutch persecute us here for our religious beliefs?"

"No, dear heart, the Anabaptists may here worship God as they will, and,—" she murmured softly, "the 'Lord that delighteth not in burnt sacrifice' will hear their cries."

As if an echo of her words, coming through the open doorway, terrible cries and the dreaded Indian war-whoop were heard. A young Indian maid stood before her; her soft mocassined feet made no sound.

"Fly, pale-face, fly; the red men, my people, come to kill!"

As she spoke, the Indian maid seized the hand of the youngest child, and followed by the terrified family, passed out into the forest. The half open door stood wide; they would never again pass through its portals. There was no turning back. A yell, loud cries, a scream, and all was as still as death. The giant trees were witnesses of the horrible massacre. Forest ferns were drenched with blood, and the Indian, Minatonka, holding the terrified child by the hand, was making her way swiftly through the brush of the thickly wooded glen. As they looked back they saw clouds of smoke arise from where the dwelling had stood, and the glaring, crackling flames lit up the forest as they fled.

The American Jezebel would never more poison the minds of Puritanical New England, who had been her enemies. The Master of Anne Hutchinson had called her to the brighter land where there could be no clouded vision. Her youngest child passed out from her Mother's arms into the wild, unbroken forest, there to find a home among the red men.

CHAPTER IV

Henry Moody Declares His Love. Departure of Roger Williams

"Love breaks in with lightning flash; friendship comes like dawning moonlight. Love will obtain and possess; friendship makes sacrifices and asks nothing."
—Geibel.

Seated in the doorway, by her spinning-wheel, was Frances, her parted, golden hair waved over the white forehead, being drawn into a loose knot and tied in place by a ribbon. Her eyes were really blue, but seemed at times to be very dark; they

were sparkling eyes, mirroring the soul within. Just now they were laughing, and the pretty dimples in either cheek were most alluring. One little foot rested on the treadle, but the wheel was not in motion. She turned her head to speak to Annetze, the Dutch maid, dressed in her scarlet petticoat, laced velvet bodice, and quaint cap.

"Faith, I am glad that task is at last finished. Annetze, where did you say Lady Deborah had gone?"

"Only, Mistress Frances, to call on Mistress King, who is having a sorry time with her bayberry wine. Mistress King was in the midst of it when the red men appeared; she left it all and ran here—I fear it is spoiled."

"And whither hath Sir Henry taken himself, this fine Autumn morning?"

"Ah, Mistress, he hath gone to Coneyne Island, to see about the hogs being better looked after. The house seemeth indeed deserted and most quiet after all the excitement of yesterday."

Annetze was polishing a pewter platter, as she stood by the old dresser, and from time to time she held it up admiringly for inspection. "I had a dream last night."

"A dream, Annetze! What kind of a dream was it?"

"I dreamt, Mistress, that we were all getting ready for a wedding, and that my Lady Moody was really much pleased over the matter."

"A wedding?" The blue eyes twinkled merrily, "A wedding? Whose wedding was it, Annetze, yours? Perhaps you've fallen in love with one of the red men?"

"Oh, Mistress Frances, that would indeed be a sorry business, a red man. I have not lost my senses; my scalp is valuable to me. You are joking, Mistress Frances. The Domines Magolopsis would shut me up in the dark house; if any man ever hated the Indian, he does."

"Yes, truly, I am joking, but you must in truth tell me the name of the bride. Dreams ever interest me."

"The bride, Mistress, was the fairest lady in the land, yourself, Mistress Frances."

"And the bridegroom, who was the bridegroom?"

"The bridegroom was Sir Henry, bless his heart. A fine

looking pair, Mistress Frances, you were. Speak of men angels, here comes Sir Henry himself."

"Hush, tush, girl, your words may offend." Looking from her wheel, Frances saucily said, "Bless me, Sir Henry, did you conclude the hogs would be dainty morsels at Christmas time? Jews are scarce here in this God-forsaken country; so they ought to find a market."

"Yes, I have been to Coneyne, and attended to my various concerns. The hogs are all right now and enjoy wallowing in the wet sand at one end of the island. A report reached my ears that the English Privateer, 'Seven Stars,' landed this morning on the farm of Anthony Jansen Von Salee, and stole his pumpkins, the whole lot of them. They were about to seize our hogs, when some one told them that they belong to Lady Deborah Moody and, as she is an English woman, they refrained."

"Between the Dutch tyrants and the Indians, the English settlers have a hard time of it, Henry."

"Yes, they are suspicious lot, these Dutch, but the Director Kieft hath been a good friend to my Lady Mother. The patent has just been sent; I will read it to you.

It 'gives and grants unto ye Honored Lady Deborah Moody, Sir Henry Moody, Baronet, Ensign George Baxter, and Seargeant James Hubbard, and any that shall join in association with them: a tract bounded by the creek adjacent to Coneyne Island; also by land of Anthony Johnson and Robert Pemaner, and by the Ocean, with privilege to graze cattle on Coneyne Island, with power to erect a town and fortifications, and that they shall have and enjoy the free liberty of Conscience, according to the Custom and manner of Holland, without molestation and extortion from any Magistrate and Magistrates or any other Ecclesiastic or minister that may pretend jurisdiction over them, and with liberty to constitute themselves a body politic, as freemen of the Province and Town of Gravesend. Power has also also been given to nominate, to the Director members of Minor Court of three men, to be constituted, and also a Schont or chief Magistrate.'

"You see, Frances, the patent is so worded, that the patentees and their heirs shall faithfully acknowledge and reverently re-

spect the high and mighty Lords—the Estates General of the United Belgic Provinces, His Highness Prince Frederick, by the Grace of God Prince of Orange, and the Right Honourable Lords of the West India Company."

"A pretty time, Henry, we will have with such near neighbors."

"Never you mind about our near neighbors; the majority are our countrymen—with the rest we must make ourselves content."

"Henry, I am weary of being grave. I want to laugh once more. We live in a serious age, as you say, but just for the next five hours, I would like to forget the red men, the Governor, and our neighbors."

"The Indians, Frances, are not going to get your golden locks if I can help it. Never fear, lady-bird, you are my captive just now, or I am yours."

"I like being your captive, Henry, it is good to have a protecting arm. Your Mother was my mother's friend, and has been like a Mother indeed to me."

"And she loves you as she would an own daughter. My sister was so far away and there never seemed much love lost between parent and child. Constance was a trifle wayward, you know."

"The Dutch maid, Annetze, told me of a dream that came to her last night. I will not tell it to you, however."

"Not tell it to me, Sweetheart? Why this reticence?"

Frances blushed so deeply, that Sir Henry bent over and gazed into her downcast eyes. "Not tell it to your best friend?"

"No, not even to my second best, or third best, or fourth best." She pouted.

Just at that moment, Lady Moody appeared on the scene. "Not quarreling, children, at this hour of the morning?"

"No, just teasing, Mother," he says, "Frances appeareth to have a secret, and won't tell it to me. I say I am her best friend, and she doesn't like it."

"O, children," and Lady Moody laughed, "Well-a-day, I am glad to see someone gay enough to tease. It seemeth to me the whole world is in a most serious mood." Taking up the roll

of parchment, which Sir Henry had been reading aloud to Frances, she glanced at it attentively for a few moments, fingered the large red seals, and then rolling it up, she tied the ribbon around it. She crossed the floor without saying a word to either and placed it in one of the pigeon holes in her desk.

"This is indeed a precious possession, and I fear me it will cost me the loss of friendship of the English and suspicion of the Dutch. However, the Governor General standeth by me, so for the present I will not fear."

"Mother, this morning a message has come, advising me of Governor Kieft's recall, and the coming of His Honor, Peter Stuyvesant, who will succeed him."

"I fear no new Dutch Governor, or the methods he may use to coerce the people. I have promised to remain loyal to the Dutch as they grant us here liberty of conscience. It is to be hoped the new Governor will carry out the same. Frances, you have finished your stint for the day. Go you and Henry out for a stroll before the day lengthens; the hour glass showeth how the moments fly. It is best not to venture far from the stockade to-day. The red men seem to have disappeared, but one must ever be on the alert, for those men from the crew of the Privateer 'Morning Star,' are wandering around and are hardly fit companions for a young maid. If you perchance meet any of them, cast your eyes down, Frances; they are a bold lot, and might take liberties."

"I will go with Frances, if you wish, Mother, to look at the plants our neighbors have promised us, for which I will send Jake to fetch in the morning. Come, Frances."

"I must look for my hood," she said.

"Nay, no woman needs a hood, with such a wealth of golden hair."

"What know you, Henry, of the maid's needs?"

"In truth, I have been a quiet student of the fair sex for some years."

"Tut," my Son, "well, take Frances, and go; you will be late for the mid-day repast."

"Take her for good and all, Mother?"

"Yes, truly, I would wish no better companion for my son, than my dear Frances."

Laughingly, and with blushes and dimples, Frances permitted her little hand to be drawn through his arm, where it rested lightly. Lady Moody heard the ripple of laughter and the gay jests of the pair, as they disappeared down the pebbly garden path and the bushes hid them from view. She turned away to hide a tear, which rolled down her cheek on the black satin apron, while she murmured, "So young, so fair; when she is my own daughter, I will indeed be rich. My own child was never a daughter to me. How fair she is; worthy indeed to be the daughter of—(she paused). Now that they have gone, I must visit Reverend Mr. Williams, and find if he has need of anything. Henry is not in sympathy with the Anabaptists, but the maid is perhaps, seriously inclined, for one in love. There are three couples who must be united in matrimony; they were to be here by now. Ah, here they come."

After a few moments, the maid, Dorkins, ushered Reverend Mr. Williams into the drawing-room. Three blushing grooms with their brides stood in the back of the room where Lady Moody had conducted them.

"You come to me in a goodly time, friends," said Roger Williams, "for I go, shortly, to Old England."

In the simple marriage service used, the three brides and grooms were made happy. After which Lady Moody's English maid, who had been her faithful follower from England's shores, brought out some light refreshments after the ceremony, seed-cakes and light currant wine, served on a dainty silver salver. In half an hour, the happy couples departed, each bride having received a gift from Lady Moody, who kissed them as they stood to say farewell. The solemn words ringing in their ears, they departed as quietly as they had come. Turning to Roger Williams, she invited him to repair to a room, opening out of the wood-house, where many of the farm implements were kept.

"Dorkins, you can serve the Reverend Mr. Williams his midday meal there, for it is much cooler, and before the children return, we will have a word of prayer and the reading of the Scrip-

tures. I have invited a few neighbors who are in sympathy, to join us."

"Surely, noble lady, you do a good work here, so near the wilderness?" said Dr. Williams.

"Ah, I am indeed much interested." Turning to the maid, Dorkins, she said, "see that only Master and Mistress Hubbard, and those whose names are on the parchment which I gave into your hands come into the service that Mr. Williams will hold."

Dorkins, advancing to the door at the back of the house, greeted the several persons who were approaching through the gardens and conducted them to the low-ceiled room near the woodshed. All took in silence the seats given them. Roger Williams rose and offered prayer, followed by the reading from the Holy Scriptures, and an address. No hymns were sung, but the great preacher spoke most ably to the handful of people.

"Persecutions are rife. I myself have been obliged to seek a new home in Providence Plantation. Here, in New Amsterdam, you worship as you will and yet—"

There was the sound of a knock on the door, but the watchful Dorkins made all rise to their feet. "It is better," she said, "that the meeting be dismissed, as two persons from the New England plantation have just arrived."

Lady Deborah beckoned to Roger Williams to follow her. They passed out of the low door in the side of the room, which led to the dairy, and she said in a hushed voice, "May the voyage to Old England refresh you in every way, dear friend; do not forget to remember me most kindly to all those who make inquiry concerning me. I shall never return to Old England."

"It is for Conscience sake, Lady Moody. We are of the same mind. I return to the Old World that I may influence my brothers in Christ. I must obtain from Parliament a patent for Providence plantation. Civil war confronts England; the long Parliament is in session."

"Yes, truly, but the dreadful Star Chamber has been done away with. Charles has had to flee, and Old England is in a deplorable state. Do you fear the long voyage?"

"I am never idle, when on the deep. I have begun and shall finish my new book, 'The Key Into the Languages of America.'

The Mother Country knows naught of the Indians and their speech; all is strange to them, but my book may, perchance, prove of interest. Remember, noble Lady, that kindness to these Indian tribes will bring in return the best results. 'God is Love.' "

"You will return when things are a bit more quiet, Dr. Williams, and will find ever a welcome under my roof-tree."

"Thank you most heartily, Lady Moody. 'May the Lord watch between me and thee, while we are absent one from another.' "

So Roger Williams disappeared as his horse galloped down the lane, and the trees hid him from view.

CHAPTER V

A Strange Message

"There's never a burden so heavy,
That it might not be heavier still;
There it never so bitter a sorrow,
That the cup would not fuller fill."

—Helen Hunt Jackson.

It was twilight time; even the songs of the birds were hushed. A peace brooded over all nature.

"Here at last, I can be alone," sobbed Frances, "here under the shade of these thick trees, I must try to regain my self-control. So alone am I in this strange land. My father—I have a father somewhere, and the dear Lady Moody saith my mother, her old friend, must have died; they know naught of her." She started and glanced around, to see if any eye could read the pain written on her face. "Dear Lady Deborah, how I love her; yet she is no kin of mine, and I must act alone. I think and think, but thinking does no good. Sir Henry Vane, the Governor, would not listen when I asked him concerning my history. 'You will know all some day, Mistress Frances,' he said, 'be patient.' Turning her eyes heavenward, she prayed for guidance. tient.' " Turning her eyes heavenward, she prayer for guidance. "O! my Master, help me thy poor child; be a father and mother to me and show me the right path, that my feet slip not. Of a truth, I love Sir Henry, and he loveth me, but can I say 'yes' when I know not who I am?

I must be honest, yet when I would speak, my tongue cleaveth to the roof of my mouth. A chill causeth me to tremble. And Leslie, the friend of my childhood, hath no title. Yet what meaneth a title here, in this new land? It cannot help me. What shall I do? I must wait and see what the future hath in store. Yet tonight, by early candle-light, I have promised to give Sir Henry his answer. They tell me my father was a great man, and I, his daughter, must never shrink from duty, even if it cause a heartache." She started, as rustling in the underbrush sounded on her ear. Half turning her head and daring hardly to breathe, she crouched yet lower down, under the shade of a branch.

"Hey-day! fair maid, you think to escape me. Are you a wood-nymph? Alone, I perceive."

Frances' heart beat wildly. "I know you not, Sir, nor why you force yourself upon me; I have friends within reach, although at this moment I appear alone."

"You are the pretty ward of Lady Deborah Moody. The fame of your beauty hath reached even Virginia plantation. A lucky man am I to find you here, like a fairy Princess, here in the forest. I have been all day in hiding, hoping to spy your whereabouts."

"Good Sir, what I do can certainly be of little interest to you or any gallant; I pray you, leave me in peace."

"Nay, fair Mistress, do not be so cruel; I will tell you who I am—naught but one from the Privateer 'White Star'."

The name of the Privateer ship was held much in dread by the Dutch. She had heard from the neighbors of the depredations of members of the crew. Had they not tried to rob Lady Moody of some of the hogs?

"Mistress, fear not; I am the Captain of the vessel, and all English settlers are safe from our molestations." He advanced toward Frances.

"Leave me, Sir, I entreat you! if you are English, you will respect a countrywoman."

"I am not a bad man, and only two days ago forbade my crew to touch the hogs of Lady Moody. At first I did not know they were her property, and came near confiscating several litters.

As I said, I am harmless, but bear a message for you from a friend."

Frances turned quickly and suspiciously scanned the countenance of the man. He advanced a step or two nearer, treading under foot the tall ferns which gave forth sweet fragrance.

"Here is the missive. I did not want to frighten you, fair Mistress; you appear like a hunted fawn. Let us be friends, and tell me who you are."

Frances stretched out her hand for the packet.

"Nay, Mistress, what reward do I have for placing it in your hands?"

"You have my thanks, Sir."

"Nothing more? A kiss, perhaps." He advanced nearer and looked up into her face."

"Nay, nothing; begone. You are a stranger and kind to bring me the missive, but I pray you depart."

Placing the packet in her hands, he replied, "At your desire I leave you now, fair Mistress, but you will see me again when you least expect; fare you well."

The breaking of twigs underfoot told Frances she was once more alone. Tears filled her eyes and, turning swiftly in the opposite direction, she found the little path by which she had come and soon was safe within the stockade. She was breathless and frightened. Hurrying to the house, she found the half-door standing open and, meeting no one, sought the seclusion of her small chamber. There was the four posted bedstead with its spotless hangings, the spinning-wheel and low chair, and the desk with its row of drawers and tiny shelves on either side, on which stood the tallow dip in a candlestick, ready for lighting. There were two books, bound in sheepskin—her Bible, and Church history. A breeze had sprung up and the curtains at the one window were filling up like little sails blowing into the room.

Bolting the door into the passage, Frances lighted the tallow-dip; loosing the seals of the packet she read her letter. The packet shook in her grasp. The candle flickered, so she was obliged to close the window and draw the curtains. Some curious eye might be watching and report the missive. Letters were

rare in those days. The epistle ran as follows. It was in cipher, but Frances evidently familiar with the characters, could translate with little trouble. As her eyes followed, line by line, she trembled violently.

"It is from Sir Edward Whalley. Would that I knew why that man taketh such an interest in me. They tell me some day I will know. I must not lose courage, when so much in life awaits me. Sir Henry loves me, but does he love me as Leslie did? The letter saith, Sir Edward Whalley would speak with me in secret. What must I do? Lady Deborah is his friend, poor Lady Deborah, she hath so many vexations, and troubles in her life. And she must not carry my burdens. The epistle fell from her hands. Snuffing the candle, Frances sat down by her low wheel. A gentle knock sounded at the door, and she rose, unbolting it. Before her, Lady Moody stood.

"Ah, my little Frances, when in trouble, I turn to you."

"What, you too in trouble, dear Lady?"

"What mean you by 'you too'? Your eyes look as if they had been weeping."

"Yes, I weep at times, for I would know more of my father, and no one telleth me, and uncertainty and sorrow like a canker worm, eateth into my heart. What troubleth you, dear Mother?"

"In truth, these Dutch rules pertaining to the serving men and maids and the slaves, make my hair turn white. So many servants do nowadays run away that the corn and tobacco are decaying in the fields. The harvest will amount to naught. The man and woman, Agnytie and Tennis Tomassen, fled to me for protection fearing their Master. I fear me I will have to pay a fine of fifty guilders for housing them."

"Yes, truly, I hear this is to be divided between the Fiscal, the New Church, and the Informers; His Excellency keeps a sharp lookout."

"As the twenty-four hours are almost over since they came and as they refuse to depart, I know not what course to take. Ah here you are, Henry!" And the handsome face of Sir Henry appeared in the doorway.

"Hey-a-day, what new trial has come, Mother?"

"The Dutch are such devils. Order them back to their Masters, or we will have trouble."

"Anything, anything, dear Mother, to drive the care from your brow. I hate fusses."

"I hate them too, but we must obey the laws of Holland if we live among the Dutch."

"It will be as you wish," and Henry turned quickly away to hurry the unhappy pair back to their Master.

"I look forward to the time," continued Lady Moody, "when the negroes from Angola, will be introduced to do the work of the farms. I hear they expect shortly a large cargo of them to arrive. There is to be a tax of fifteen guilders a head. One liketh not to fail in one's duty, and yet one's nature softeneth toward the slave, who must work without a reward. You had a pleasant stroll, Frances?"

"Pleasant, yes, the first part, but Sir Henry was called off to one of the neighbors who needed his advice, and I wandered into the woods by myself."

"A most unsafe thing to do just now, when the 'White Star' pirates are abroad."

"It was a bit unsafe; I had a fright, for one spoke to me, and looked right boldly into my face, saying words I like not, and asking my history."

"I told you, maid, to beware; 'discretion is the better part of valor.' One is never safe from these prowlers. Tell me; what else happened?"

"The man handed me a sealed packet."

"Let me see it, Frances. I would not pry into your affairs, my child, but am a bit suspicious coming as it did. Ah, in cipher," Lady Moody said, scanning the contents of the epistle, "and from Sir Edward Whalley."

"Read, dear Mother, and tell me what to do."

"Ah, he is ill. We must obey him, my child. In the morning, when unobserved, we will make our way into the passage now known to you. He saith an Indian maid saved his life and carried him there. We can tell Sir Henry when we return as to the interview, and Dorkins will say that we have gone to see the little Holmes girls whom you failed to reach sometime since.

Henry cannot bear to have you, child, out of his sight. My little girl will say 'yes' to my big boy? Ah, Frances, you are indeed like my very own."

"Dear Lady Moody, I fear to grieve you. The unknown past shadows the present. I have no right to let the shadows rest on those I love."

"Ah, no, little Frances, that maketh no difference—the question of birth. You are my child, now, and will be really my own child, some day."

The girl burst into a violent fit of weeping, and Lady Deborah, putting her motherly arms around her, drew the girl's head down upon her breast. Their tears mingled, and from both hearts a prayer went up for guidance.

Historic Views and Reviews

Humorist of the Bench

"Justice Plowden of London, famous for the rare humor and good sense with which he seasoned his judgments, has resigned his place as magistrate at Marylebone and retired after twenty-six years' service in that position. For years he was considered the humorist of the bench, and his aphorisms came to be known as 'Plowdenisms.' In 1903 he published a book with many wise sayings, to which was given the title, 'Grains of Chaff.' A typical case of Plowden justice is the following:

"A girl 15 was before him on a charge of loitering for the purpose of betting. The police stated that the girl went about on her bicycle collecting betting slips and money for her father, who was a commission agent.

"Mr. Plowden, addressing the girl, said:

" 'You have had a trying experience. I want to tell you that you have done nothing wrong at all. You have simply done what any little girl ought to do—you did not know you were doing wrong, and therefore you may go away and need not let this experience weigh upon you at all. Forget all about it and go on obeying your father, and you will come to no harm.'

"Then turning to her father, Mr. Plowden fined him £10."—*Indianapolis News.*



Rheims Cathedral—and Metz

"We shall probably find the occurrences at Rheims a repetition of what happened at Metz in 1870. There, during the siege, the French established a military observatory in the steeple of the

cathedral. Warned that its character would not protect the building, if misused for military purposes, the French still kept on misusing it, whereupon the German artillery rendered the steeples uninhabitable and inaccessible.

"Then, as now, an outcry against 'German vandalism' was sent out by the French, into a shuddering world. But soon after, when the Germans had got possession of the cathedral, they immediately went to work on its restoration. The numerous one and two-story houses which the French had built up against the cathedral, using its walls as part of the houses, were cleared away. One of these rookeries was found to be a beautiful 13th century portal that had been closed up by brick walls and rented as a grocery store. The west front was freed of its rococo disfigurements. After ten years of restoration, based on painstaking and loving study of the monument itself and of its contemporaries, the cathedral appeared again in its original glory, and was rededicated in the presence of the then Emperor Wilhelm I and of a representative of the Pope.

"The writer knows whereof he speaks, because, as a young student, he took part for some time in that work.

"Regarding Rheims, we are told of the removal by the French from the cathedral, before it was made the target of the German artillery, of the old tapestries with which it was decorated. Considerable time must have been consumed in taking down, rolling, and removing them. It would have been too late to begin with that when the bombarding began; they must have had warnings of what was going to happen, and they would not have been warned, had they not, as at Metz, misused the cathedral for military purposes. Mr. Delcasse's contrary assertions notwithstanding.

"By the correspondent of the London Daily Telegraph, who saw the cathedral twice after its bombardment, we are further told that it can be restored, and that it is not the shapeless heap of debris Mr. Delcasse would have us believe. Merely the steeples have suffered and the main building in spots, the latter damage possibly caused in finding the range of the top of the steeples, another proof that no more was intended and done than to destroy their military usefulness.

"War is no parlor game."—*New York Post.*

Unanimous Jury Verdicts

"The disagreement of the jury in the case of Hans Schmidt, the New York priest, on trial for the murder of the Aumuller girl, has provoked widespread criticism. It has led to the inquiry ought the verdict of juries in criminal cases to be unanimous? Or, will less than a unanimous verdict satisfy the ends of justice, protect the reasonable rights of the accused, and conserve the interests of society?

"The subject is not new and has frequently engaged the attention of penologists and of others who have given the matter much thought and investigation. And it may as well be admitted that there is no very general agreement upon the subject.

"It would seem, however, if the death penalty were not to be inflicted, a less than unanimous verdict ought to satisfy the ends of justice and sufficiently protect the rights of the defendant. So many persons who sit on juries that will hesitate to convict where the verdict means death, would not do so, if life imprisonment or a term of years in prison were the punishment. In such cases, a disagreement often follows.

"The question, too, is asked what number less than a full jury shall be necessary to convict or acquit? In other matters, a majority rules. In the case of juries ought a two-thirds or three-fourths of the 'twelve men and true' be sufficient, if the theory of majority rule has any significance at all?

"The weight which is given to 'expert' testimony in criminal trials, testimony which has been secured on a dollar basis, has resulted in much confusion and often a miscarriage of justice. Such testimony, while it might convince one or a few members of the average jury, would find it difficult to convince all or the majority of the jurors. This would be especially true if the death penalty was not in force.

"In the instant case, one of the New York papers says the employment of 'expert' medical testimony to establish the insanity of the accused was hardly less a scandal than in the Thaw case. Whether it was that 'expert' testimony which induced two jurors to hold out for acquittal is not known, although the other ten say through the foreman that 'we consider them (the

two) mentally, temperamentally and morally unfit for jury duty.' If this criticism be well founded, what virtue can there be in a unanimous verdict?''—Editorial by Duane Mowry, in the Milwaukee *Daily News*.



Britain's Oldest Paper

''Modern newspaper enterprise has somewhat dwarfed the importance of the London Gazette, Britain's oldest newspaper, which for 250 years has officially chronicled the history of the country. Today it is practically only used for such announcements as the King's birthday, honor lists and legal notices. Time was, however, when the Gazette was the only medium through which the public could learn any foreign news or any public announcement which royalty and statesmen had to make.

''Nowadays such announcements, while being sent to the London Gazette, are simultaneously communicated to the more important newspapers. But even today the London Gazette is controlled by the government, and a particularly watchful eye is kept on the advertisements in its pages, which are regulated by law. These advertisements are mostly of an official or legal character, of which it is necessary to keep a record, and earn for the nation about $60,000 a year. No great manufacturer could obtain a puff in its pages, even though he were willing to pay $50,000 a line for it. Altogether, the Gazette yields to the country a profit of about $100,000 a year, although practically the only people who buy it are government officials and lawyers.

''One of the most curious facts regarding the London Gazette is that while it is Britain's oldest newspaper, it is also one of the youngest, in the sense that it was not until 1908 that it was registered at the general post office for transmission by inland post as a newspaper. Previously it had been regarded as a government publication only, and was dispatched 'O.H.M.S.'—in this way, escaping postal charges altogether. But apparently the government saw a way to reap a few extra halfpence by having it registered.

"The Gazette varies in size very considerably. Sometimes it consists merely of one page, and sometimes of between 400 and 500, but the price always remains the same, viz., 1 shilling. There was one memorable week in 1847, which was known as the 'Railway Year,' when so many parliamentary notices had to be published that the Gazette for the week totaled about 3,000 pages.

"One of the most interesting numbers of the Gazette ever published was the Diamond Jubilee number, the whole paper being devoted to an official record of that historic celebration.

"As an illustration of the importance of the Gazette in the old days, it might be mentioned that as recently as the Crimean war the Gazette was the first to publish that important item of news, the victory of Alma. At one time the London newspapers had to wait for the publication of the Gazette in order to secure such news of public importance as the list of casualties, which the war office in those days sent direct to Fleet street."—*Philadelphia Ledger.*



Territorial Days in Wisconsin

[Much interest having been aroused by the article, "The Territorial Supreme Court of Wisconsin and its Judges," which appeared in the September number of Americana, the following, regarding that State before its entrance into the Union, has been sent us by Julia A. Lapham, Secretary of Waukesha Co. Historical Society, Oconomowoc, Wisconsin; the article is taken from a description given in the *Madison* (Wisconsin) *Democrat,* of the exercises at the dedication [under the auspices of the Federation of Women's Clubs] of the marker placed on the site of the first Wisconsin capitol at Belmont, and the interesting historical data given below are culled from the speech made at that dedication by Dr. Reuben Gold Thwaites].

When Wisconsin became a separate territory, in 1836 (it formerly having been an integral part of Michigan territory), there were four chief centers of population within the bounds of the present state. These were Green Bay and Prairie du Chien, which depended on the old fur trade; Milwaukee, whose interests were agricultural and lake shipping, and Mineral Point, surrounded by a group of lead mine camps.

Between these centers there was fierce rivalry over the loca-

tion of the territorial capital, for in those days there was an exaggerated notion as to the importance of the capital to the district in which it was situated. There were 16 principal applicants for this honor, representing almost every important section east and south of the Fox-Wisconsin rivers; among these and quite confident of success, was the little hamlet of Belmont, in LaFayette county, which had hastily been erected to accommodate the first legislative session. The village consisted chiefly of four small buildings—a council house or capitol, a building for the sessions of the supreme court, a residence for the governor, and a lodging house for members of the legislature. The capitol, necessarily the largest of them all, was a two-story structure, with the "battlement front" common to business buildings in American frontier towns then and now. The council, or upper house, occupied the ground floor and the house of representatives the top floor. This is the building still to be seen at old Belmont (now Leslie), but on a site some 200 feet distant from its original location, and now in a much decayed condition and used as a cattle barn.

But Belmont's claim received scant courtesy at the hands of the legislature meeting within its limits. James Duane Doty, federal judge of the district west of Lake Michigan, a man of commanding influence throughout this region, was interested in several town plats that existed chiefly on paper, and none of which contained even the most primitive form of human habitation; in several of these land schemes, his financial partner was Stevens T. Mason, governor of Michigan territory. Among these "paper towns" was the "City of Four Lakes," where are now Livesy's Springs, on the west shore of Lake Mendota; this tract had been platted under Doty's orders, in the summer of 1835, at a time when he was conducting in congress his active campaign for the erection of the new territory. Another of his schemes was Madison on the isthmus between Lakes Mendota and Monona; this was as yet unplatted. Doty's first choice was the City of Four Lakes; but when he saw that the majority of the legislators favored Madison, he abandoned the former and threw the weight of his influence in favor of Madison, which after a month of filibustering won out.

History of the Mormon Church

By Brigham H. Roberts, Assistant Historian of the Church

CHAPTER CXII

Judicial Crusade 1872-1877. Bates-McKean Embroglio—Official Corruption Among Utah Federal Officials—Anti-Mormon Congressional Legislation—The Poland Law—Prosecutions for Polygamy—The Young vs. Young Divorce Case—Imprisonment of Brigham Young—McKean Dismissed from Office—A Malicious Prosecution

THE natural order of things following the Supreme Court's decision would have been the retirement of Judge McKean, by resignation or removal; but notwithstanding efforts were made to bring about his removal President Grant still sustained him. Fidelity to friends, even when in the shadow of disgrace, was a virtue run to seed in the great General, then the President of the United States, and McKean's official life in Utah was prolonged for some time; to come later, however, to a more inglorious ending. Before the reversal he received by the decision of the Supreme Court in the Englebrecht case, Judge McKean had enjoyed special privileges in the matter of a hearing before the American people. Mr. Godbe had been induced by Mr. T. H. B. Stenhouse, who, as before noted, had been a member of the New York *Herald* staff, to import to Salt Lake City a Mr. Oscar G. Sawyer, also connected with the New York *Herald* staff, to take editorial management of the Mormon *Tribune,* organ of the schismatic Mormon Elders led by Godbe,

which soon after Sawyer's arrival dropped the prefix "Mormon" and became simply *The Tribune,* and bitterly anti-Mormon. Mr. Sawyer, was retained by the New York *Herald* as its Utah correspondent with well-nigh unlimited telegraphic space at his command. Mr. Sawyer could thus through that, at the time, prince of New York journals, practically control public opinion in the United States. According to the statement of Mr. Tullidge, in his History of Salt Lake City, also at the time here referred to a member of the *Tribune* staff, and cognizant of all its affairs as being an associate with the founders of the *Tribune,*—it was the custom of Mr. Sawyer to allow Judge McKean to write editorials for the *Tribune* supporting his own court decisions. A few excerpts from Mr. Tullidge's statement is at this point enlightening:

"It is a matter of great importance to Chief Justice McKean and the U. S. prosecuting attorneys, with such a programme as they had designed to execute in 1871-2, to have the Salt Lake *Tribune* under their dictatorship and in their service, with the understanding, not only among journalists in the eastern and western states, but in the mind of President Grant and his cabinet, that the Salt Lake *Tribune* was the organ of the seceding Mormon elders and merchants. With this explanation, be it repeated, Chief Justice Jas. B. McKean was permitted by the managing editor, Oscar G. Sawyer, to write editorials for the Salt Lake *Tribune,* sustaining his own decisions; while Sawyer, as shown in his telegrams to the New York *Herald,* relative to the arrest of Brigham Young and the alarming circumstances of the hour, could communicate the secrets of the grand jury room, and the business marked out by the judge and prosecuting attorneys for the coming week, his telegrams dated three days before the indictments were made known to the Salt Lake public and the arrests effected. With this power in their hands to create public opinion not only in Salt Lake Ctiy, where it would have been comparatively of little consequence, but in the eastern states, and in the *sanctum* of the White House, the judge and prosecution, who were arraigning 'Polygamic Theocracy' and trying 'a system in the person of Brigham Young,' held a most unlawful advantage."[62]

The course of Mr. Sawyer in thus conducting the *Tribune* so

62. Hist. Salt Lake City, p. 589.

wholly in the interests of the Anti-Mormon party brought strong protest and mutiny in the editorial staff. A private meeting of the board of directors was called, and Mr. E. L. T. Harrison of the board charged that Mr. Sawyer had turned the *Tribune* in a new direction, and had given it other aims and purposes from those for which it was established; "but above all, he impeached the managing editor on the specific charge of having permitted Judge McKean to write editorials sustaining his own decisions. The conclusion of the matter was that Mr. Sawyer was permitted to resign because of "a journalistic incompatibility," existing between himself and the directors. This according to his editorial valedictory. But the true reasons for his resignation, are found in the sustained charges by Mr. Harrison as above given.

After the severance of the relations of both Judge McKean and Mr. Sawyer from the *Tribune,* and the natural tendency to discredit the judge by the press of the country after the decision of the supreme court, he lost much of the advantage he had hitherto possessed. A fierce conflict arose between him and the district attorney, charges and counter-charges were made by both the judge and the district attorney; by the former from the bench as we have seen; and also in person at Washington; and by the district attorney through the press of the East.[63] President Grant, as already stated, requested the resignation of Mr. Bates, which the latter declined to hand in because there were no charges preferred against him. This before the decision of the Supreme court was rendered. After it was rendered, so clearly vindicating the district attorney's views, and so completely reversing Judge McKean's procedure, of course the Bates resignation could not be further pressed, nor could he be removed, at least not immediately. But the differences between the judge

63. See Washington correspondent of the Chicago *Post* under date of Jan. 29, 1872. The correspondent states that from other sources than Mr. Bates he learned that "the chief troubles with Judge McKean is that he has a 'mission';" that "he was at one time a Methodist preacher, and he seems to be unable to get out of his clerical harness, or separate old time denominational enthusiasm from his judicial duties." The *Chicago Post* article is published in Deseret News-Weekly of March 13, 1872, and in the Omaha *Herald* of 19th of June, 1872. See also Art. in Omaha *Herald* of 19th of June, 1872 published in *Mill. Star.*, Vol. XXXIV, p. 454; and art. in N. Y. *Herald* of April 26th, 1872; reproduced in News of May 8th.

and the attorney increasing, and their antagonism growing in bitterness, the President on the 10th of December, 1872, removed Mr. Bates, and appointed Mr. William Carey, of Illinois, to be United States district attorney for Utah.[64] This act severing the official relations of Judge McKean and Mr. Bates, now gave the latter larger freedom for criticism of which he made a most vigorous use.

In a signed open letter to President Grant which first appeared in the Salt Lake *Herald,* but summarized for the press dispatches, Mr. Bates after expressing high regard for the President, but deploring the ease with which he was imposed upon by corrupt politicians, says, in regard to this weakness of the President's as it affected Utah affairs:

"Your entire administration of affairs in Utah, your special message to congress, and many of the most important appointments made by you here, have all been the result of misrepresentation, falsehood, and misunderstanding on your part of the real condition of affairs in this Territory. . . .

. . . In other communications, soon to be made in every instance accompanied by the evidence, I will demonstrate how other distinguished officers have bought their offices, how you were made a mere catspaw by corrupt senators and representatives, to send officers here whom you would not have trusted among your horse blankets in the executive stable."[65]

McKean in rendering his decision in what was known as the Haskins mining case, undertook to discredit the former district attorney in the latter's charges of corruption in connection with the Utah federal appointments, made in his open letter to Grant. In his testimony in the aforesaid Haskins case Mr.

64. "Mr. Bates" said the *Deseret News,* "in the discharges of his official duties," has conducted himself in a gentlemanly manner, and probably his chief offense to the 'ring' is that he never lent himself to their unworthy policy and purposes, but has endeavored to discharge the duties of his office in an evenhanded, impartial way." (Deseret News—Weekly—of Dec. 18th, 1872, p. 700).

65. The communication appears in full in *Mill. Star,* Vol. XXXV, p. 241, 243. The purpose of this "open letter" was to defeat the appointment of one Wm. W. Mitchell of Michigan for associate justice in Utah. Mitchell was appointed however, January 9th, 1873; but was superseded in March following, and never was installed in his office. He threatened Bates with a suit for libel in the Michigan courts, for what the attorney had published in the open letter to Grant. Bates employed counsel and instructed them if suit was filed to enter his appearance. He volunteered to go from Salt Lake to Grand Rapids to meet the issue. *Mill. Star,* Vol. XXXV, p. 255). Nothing came of it.

Bates testified that "he knew nothing of the case now under examination, nor of any official corruption in the Territory that would implicate any one *in the case before the court;*" whereupon, in rendering his decision, Judge McKean said that Mr. Bates had "caused telegrams and letters to be published in the papers that there had been official corruption," but, when called upon he "*confessed that he knew nothing about any official corruption whatever, of any official, whatever—in the matter.*"[66] This attempt to discredit the veracity of the former district attorney brought on a crisis between the parties and Mr. Bates soon afterwards published serious and specific charges of corruption among the Utah federal officials. These charges appear over the signature of the former district attorney in the Salt Lake *Herald* of July 20th, 1873.[67]

It is proper to consider at the outset the question which naturally arises and which Mr. Bates considers near the close of his article, *viz*: why were not these charges brought before a grand jury for investigation, rather than committed to the press of the country? Mr. Bates replies:

"The answer is plain: because the clerk of the court here would not issue a venire demanded by me, and the court would not order it done. All this I reported to the [U. S.] attorney-general last fall. The names of the witnesses to prove the facts here charged, and of the officers against whom the accusations are laid, will be furnished to the U. S. district attorney whenever he will summon a grand jury to enquire into offences against the laws of the United States; or to a committee appointed by congress to investigate into the matters involved."

The N. Y. *Sun* correspondent referred to put this situation as

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66. Salt Lake *Herald* of June 21st, 1873, commenting on the matter the Herald said: "He (Judge McKean) took occasion . . . to reflect on Mr. Bates' evidence, and so far tortured that evidence—according to his reported language and the reported testimony of Mr. Bates—that an impartial, unprejudiced person would be apt to think that the Judge had been guilty of a deliberate misstatement." (Id.) Also *Mill. Star,* Vol. XXXV, p. 476.

67. Much of the matter, nearly all—in Mr. Bates' signed article in the Salt Lake *Herald* of the 20th of July, appears also in a lengthy article by a special correspondent in Utah of the New York *Sun,* under date of Salt Lake City, July 23rd, 1873. I shall use both these articles in the condensed presentation of the subject in the text. The signed article of the Salt Lake *Herald* will be found in *Mill. Star,* Vol. XXXV, 529-532. The *Sun's* Correspondent's article *Ibid.,* pp. 580-83; and 587-8.

follows: "McKean has practically disregarded the Supreme Court decision, and has *merely refused juries instead of impanneling them illegally.*"[68]

After reciting his previous appointments by the general government to offices in California, and his appointment to Utah, Mr. Bates says in his signed charges:

"Having entered upon the duties of the office, I found the court composed of three judges; against one of whom the *Chicago Times* has recently furnished the charge and evidence of bigamy;[69] another of whom it is proven by the records of our court here, to have bought his office for a note yet unpaid, and whose whole judicial career was a grave scandal on temperance, justice, and morality;[70] and lastly, the Chief Justice."

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68. And this refusal to call either grand or petit juries for investigation or trial of cases McKean persisted in to the scandal of the Territory, up at least to Feb., 1874; as witness his own declaration to that effect in a communication to Col. H. A. Morrow, commandant at Camp Douglas, under date of Feb. 6th, 1874; *Deseret News*—Weekly—of 11th of Feb. Also Editorial of the *News* Id., p. 25.

69. This was Judge Hawley, and the charge, startling under the circumstances, was true. The *Chicago Times* article is reproduced in *Mill. Star,* Vol. XXXV., pp. 481-4. The charge was first published in the Salt Lake *Herald.* Judge McKean as he mounted the bench one morning saw it in the *Herald* lying on his desk. He read it through. It is said by the *Chicago Times* report than he was greatly enraged. "He sprang to his feet and shouted to the marshal to call in the grand jury. [He had by this time found it possible to have juries]. The official did as directed. The jurors took their places with respected awe in the chairs provided for them. The court then said, in substance: * * * The Salt Lake *Herald* charges Judge Hawley with having more than one wife. It intimates that he is guilty of adultery and fornication. It insinuates that he is a fraud and a hypocrite, and that he does not provide for his family. This court must purify itself before it can try other people. You must now indict Judge Hawley for bigamy, or John T. Caine, editor of the *Herald* for libel. You must now retire."

Mr. Caine was promptly indicted for libel by the obedient jury, but the case never came to trial.

[Messrs. Sloan and Dunbar were included in the indictment.—Edrs. *Herald*].

A search was instituted among the records of the superior court of Cook county, by Mr. Caine. The transcript of a proceeding for a divorce was obtained, and a copy of an alleged decree. It was subjected to judicial criticism and inspection, and discovered to be irregular and fraudulent, and that it had not been obtained as the law prescribes; in short, that the defendant, Cornelia M. Hawley, was not legally divorced. Mrs. Hawley was also hunted up by the Mormons. She consented to be present at the trial of the libel suit when it should come off, and to claim the immaculate judge as her husband.

"The result of this exposure of the domestic eccentricities of the pharisaical judge brought down upon his head the malediction of the entire opposition press of the country. Judge Hawley shortly afterward resigned and slunk away into obscurity." (Chicago *Times,* Art. reproduced in *Mill. Star,* Vol. XXXV, p. 481-4).

70. The charges are true. The Judge was Obed F. Strickland. The facts relative to his purchasing the judgeship are set forth in the S. L. *Herald.* At the time the commercial transaction occurred Thomas J. Drake held the office of associate justice of Utah, and had a little less than a year of unexpired term. Drake did not intend to ask for reappointment as he had become unsavory in Utah as set forth in previous chapters in this History. Under these circumstances Strick-

Both Hawley and Strickland resigned in the winter of 1873, and were succeeded by the appointment of P. H. Emerson, of Michigan, 10th of March; and Jacob S. Boreman, of West Virginia, 20th of March.

Coming to other and more serious charges of corruption against these judges and other federal officials, I quote Mr. Bates' own language, as published in the New York *Sun*:

"First—I aver that most grave charges of official corruption against two United States officials of Utah were preferred to the attorney general by telegraph in 1871; the charges were in sitting in judgment in mining cases where they were themselves interested and that an order was issued to investigate the charges made, and if found true, to remove them both; but before the order was executed the Rev. Dr. Newman intervened at Long Branch, [where President Grant temporarily resided] and the matter was dropped. The telegraphic charges were from a United States Senator, and were on file a year ago in the Department of Justice, and are there now unless abstracted."[71]

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land, "sadly in need of an office" met Drake in Washington and in consideration of a note of hand for the amount of one year's salary—which Drake had yet to serve—$2,800, Drake interested himself in Strickland's affairs and secured for him the appointment. "But alas for judicial honor! Once installed on the bench Strickland refused to honor the promissory note," (which was to be paid in four yearly installments) and Drake at the end of four years brought suit to collect it. Strickland "puts in an answer in the shape of a demur, to the effect that the contract is void on *grounds of public policy*." The whole case is published in the Semi-Weekly *Herald* of April 19th, 1873, with names and dates in full. "Comment," said the *Golden Era*, of April 27th, after detailing the story—"comment on such a case is superfluous. Language fails to do justice to the subject." Of the transaction the N. Y. *Sun* said: "There can be no doubt that this note is void and worthless, for the reason that it was given for an immoral consideration, but it is valuable as showing the corruption which under Grant's administration extends from the executive departments and from Congress, and carries its foul contagion into the judiciary. To Judge Sherman in Ohio, Judge Delahay in Kansas, and the drunken Judge Durell in Louisiana is now to be added this Judge Strickland in Utah; and it also appears that Chief Justice Titus of Arizona was present while Strickland made his bargain with Drake, and approved of the corrupt transaction. (New York *Sun* article is copied in *Mill. Star*, Vol. XXXV, p. 358).

71. "The 'two United States officials' referred to," says the New York *Sun's* correspondent, in his comments upon this charge, "were Judges McKean and Strickland." The latter had been 'located' by the alleged discoverer, in a valuable mining claim in Ophir district, East Canon, known as the 'Silver Shield.' The same ground was claimed by other parties, as having been previously located by them in conformity with the district mining laws, as the 'Velocipede.' Strickland sold out his claim to McKean for a trifling sum, and when litigation arose between the Velocipede claimants and the Silver Shield claimants, Judge McKean being one of the latter, he politely turned over the hearing of the case to Judge Strickland, also a party interested; and all the litigation had in the matter was before Strickland, who had sold to McKean and was believed still to have an

(Second) "I aver that large peculations of the mails and post office have occurred here since I came, in one instance, a package of $10,000 being lost; that time after time, money orders have been stolen, and yet no one has ever been prosecuted for these offences. In one or more instances clerks detected in robbing the mail have been permitted to go, and crimes, if not actually condoned, have been overlooked."[72]

(Third) "I aver that large bodies of coal lands worth a heavy amount of money, not in market at all, have been illegitimately spirited away under false pretences, and are now held against the United States as private property by a combination of those who bought them at one dollar and twenty-five cents per acre in fraud of the laws of the United States, and that even now this process of robbing the United States of its coal land is going on."[73]

(Fourth) "I aver and charge that the timber lands of Utah during the last eighteen months have been stripped, in utter violation of the laws of the United States and a circular published by me as United States district attorney, from the Land Department, and that no attempt has ever been made to enforce the laws of the United States against such trespasses upon the public lands."

(Fifth) "I charge that a Government official of Utah purloined from my desk, during my absence at the east, a public document belonging to the archives of the Attorney General's Department, had it copied, then certified to by other officials, and then sold it to a New York newspaper for money."

(Sixth) "I further charge and aver that in 1872 a corrupt bargain was made in this city between two of the leading officials of Utah, by which a large sum of money was to be, and was actually put in a bank in this city, and also a bond payable out

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actual interest in the mine, or McKean, who had bought from Strickland. The result was a compromise by which the Velocipede claimants felt they were robbed of their just rights; but as there was no chance for an impartial trial they bit their lips, swore roundly, and accepted the alternative. Wm. M. Stewart, United States Senator from Nevada, was the party that preferred the charge by telegraph, and instructions, it is understood, were given at the time for the removal of both, but ecclesiastical influence triumphed."

72. "The gravest part of this, perhaps," comments the *Sun's* correspondent, "lies in the fact that justice is obstructed by McKean, who will not allow a grand jury to investigate such offences, nor indeed any violations of law, in his district. The United States marshal is here, fully empowered to draw jurors; government is willing to pay for the six days of each term prescribed by law; the jury law of the Territory is sustained by the decision of the Supreme Court, but no order for a grand jury issued from the clerk's office, and criminals go unwhipped of justice."

73. "This" says the *Sun's* correspondent, "implicates Maxwell, the Registrar of the Land office here; Overton, Receiver of Public Moneys, and others; though it is alleged that Maxwell has been made a tool of and has not received his share of the plunder."

of the products of a certain mine, whenever an injunction should be granted, and a receiver appointed by the other official in that case; that a retaining fee was paid to the person who was to manipulate the matter; that an argument was heard in the cause, the injunction and receiver refused, and thereupon a different arrangement was made. Is this official corruption in Utah?"[74]

(Seventh) "I charge and aver that information was given to a late judge of the Territory, to myself and many others of the citizens of Utah, by a leading agent of one of the largest and wealthiest firms in the United States, of a much graver offence against one of the United States officers, at that time, and the name of the informer, the character of the crime, and all the circumstances were given. This charge had reference to a case in court involving large sums of money, in which it was also said that a sham trial took place after the real issues had been first settled between the parties in the suit."[75]

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74. "To fully explain this charge," wrote the *Sun's* correspondent, it will be necessary to say that the Flagstaff mine, Little Cottonwood, is held to be one of the richest in Utah, its shares being at present some thirty *per cent.* premium in the London market. J. W. Haskins, of Vallejo, California, well known in the west as "Prior Titles," from his penchant for purchasing old mining titles and then laying claim to the property on the strength of them, in this way preferred a claim to the Flagstaff mine, as he had done to the Emma. He sought an injunction against the Flagstaff Company, and believed evidently that the shortest way to obtain it was by purchasing judicial and official influence. So he retained Governor Woods as an attorney in the case, paying him, if I am not mistaken, $635 as a retaining fee, with a promise of $5,000 more. It being understood that the Governor has power to re-district the Federal Judges when he deems it necessary, it was probably considered that such an influence might have its weight with the immaculate Strickland, who by a perverse decision might render himself liable to be sent to Beaver away in the southern part of the Territory, where there was little civilization and where whiskey was dear and not very plenty at that time. Besides this, it is said that Haskins agreed to have $60,000 forthcoming in the event of a decision "according to law and justice," which meant the granting of the injunction. He accordingly deposited $10,000 in cash in one of the banks in town and a bond for $50,000 more to meet his obligation. But it is believed that the Flagstaff Company "went him two better," and, not troubling themselves with bonds, put up $62,000 in cash. I need scarcely say that Mr. Haskins failed to get his injunction. Shortly afterward Judge Strickland, from his very liberal salary of $3,000 a year, was able to purchase a handsome residence in Provo, at a cost of some $8,000, and other addenda requisite to maintain the dignity of a judge. This is the same Judge who bought his position from his predecessor, T. J. Drake, of Michigan, giving his note for the price—$2,800—which is not yet paid—and who while judge, when on a drunken spree, went into a lager beer saloon in this town, impanelled a mock jury, and went through the formality of holding court with all imaginable drunken gravity, and to the infinite pleasure of the assembled crowd. He was never removed, but held the position until he resigned last winter." *Id.*

75. "In this accusation," says the *Sun's* correspondent, "we have perhaps the gravest of all. If your readers can imagine a private conference in the Astor House, New York, between one of the shrewdest of far Western Senators, a New England banker of notoriety as a keen mining speculator, and a Utah judge, whose record was even then tainted with corruption, in which future judicial decisions had to be considered, they may be able to arrive at a conclusion not far from correct.

(Eighth) "I further charge that in the spring of 1872, by reason of illegitimate conduct on the part of one or both officers of the Indian Department in this Territory, the Indians were compelled to buy their food at enormous prices, were finally starved out, and so left their reservation, came down to the settlements, begged and roamed about, until an Indian war was imminent, and nothing but the wisdom and prudence of Gen. Morrow and the keen sagacity and gallantry of Gen. Ord prevented it."[76]

"Mr. Bates," says the *Sun's* correspondent, in his closing comments on the charges, "might have charged much more, and have fallen short of the facts."

"The President has had the character of these officials laid before him; he is fully informed of their robberies and disregard of law or official obligations; but they remain here, as Casey does in Louisiana, and as scores of others do in various offices, held there by the influence of favorites or the strength of kinship, with the prospect of continuing in place as long as the President himself."

President Grant's good, easy nature in political affairs, his susceptibility to the influence of political friends, many of whom were evil-minded and corrupt, is notorious up to the point of being a national scandal, and is well sustained by history.[77] This well-known historical fact lends strong support to the

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To publish detailed facts of the matter at present would defeat the ends of justice, but the people have a right to demand that the whole shamelessly corrupt transaction—of which the Brooklyn records will furnish part of the evidence—should be sifted to the bottom." (*Id.*)

76. On this point see this History, Ch. cv. Where this charge of Mr. Bates is sustained by the facts of history as there developed.

77. "The second term of President Grant, it must be admitted," says a great History of the United States, "justified to some extent the evil prophecies of those who believed that the General's easy, good-nature and his unacquaintance with civil affairs would open the gates to doubtful schemes and schemers. As time wore on, many of the rumors of alleged hidden scandals and official corruption were dispelled, but serious and unhappy disclosures did subsequently shock the people. Changes in the cabinet of President Grant also served to unsettle popular confidence in the Administration and occasion much uneasiness as to the causes which underlay these goings and comings of the President's advisers." Then follows several pages detailing the many cabinet resignations that took place, many of which "were related to the public scandals of the day." Also a statement of the postal contract frauds; the whiskey ring robberies; the War Department scandals and exposures; also the Indian service frauds, wherein both the government and its Indian wards were alike defrauded, leading to the Indian wars of 1873, which reached their culmination in the "Custer Massacre." See Hist. U. S.—by Bryant, Gay, Brooks, Vol. V, pp. 438-442.

charges of Mr. Bates of corruption among the Grant Utah appointees, and the President's indifference when charges were preferred against them.

As the Utah "ring," had tried by judicial rulings and administrative acts to do what they would have been authorized to do if the Wade, or the Cragin, or the Cullom bill had been passed, so now, after the decision of the Supreme Court had swept aside all their illegal machinations of judicial procedure against the Mormon Church leaders, they tried to secure the passage of some special legislation which would circumvent the effect of the Supreme Court's decision, and would authorize them under the sanction of these special acts to proceed with their warfare on "Mormon Theocracy." The ring therefore through the years 1872-4 kept a lobby at the doors of congress constantly begging for special legislation. President Grant in his message at the opening of congress in December, 1872, had urged the passage of legislation recommending a careful revision of the present laws of Utah by congress, "and the ultimate extinguishment of polygamy."[78]

This was supplemented by a special message, on the 14th of February, in which he urged upon the Congress the passage of some measure which from his outlines of the supposed legislative "needs" of Utah, had plainly been drawn by some hand of the Utah "ring," striking at the right of an American community to local self-government.[79]

At this time two measures were already before the United States senate: one by Mr. John A. Logan, of Illinois,[80] and one

78. Messages and Papers of the Presidents, Vol. VII, pp. 203-4.

79. *Ibid,* pp. 208-10. The recommendations in the main were those finally incorporated in the Poland Bill which became law, and will be considered later. The President closed with an expressed apprehension that if such legislation as he suggested were not passed, military interference would be necessary, which was nothing more than the "ring's" threat for some time past, but now voiced by the President of the United States in a special message to congress.

80. This bill seems not to have received much attention in the senate, but a synopsis covering its main provision exhibits the extreme measures proposed in that period against the Mormon community: After eliminating the Territorial marshal and the Territorial Attorney General, it provided:

"That U. S. attorneys prosecute all cases tried by U. S. judges; such U. S. marshals and attorneys and their jurors to be paid from the Territorial treasury as taxed by the U. S. judges.

"That the U. S. judge, marshal and attorney shall choose and impanel juries. No challenge to be allowed on the ground that a juror had served at a previous term of the court. And giving the court, and not the jury, the power to pronounce criminal punishment.

by Mr. Frederick Frelinghuysen, of New Jersey. The latter was introduced early in February, and was a modification of the Logan Bill.[81] It provided for the regulation of the judiciary on a principle adopted by Judge McKean, but reversed by the Supreme Court; it would prevent polygamous marriages for the future, but did not propose to interfere with those relations already in existence. It passed the senate on the 25th of February, but failed of consideration in the house, much to the disgust of the "Utah ring" and their coadjutors in Washington.[82] In evidence of this I present the statement from the

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"That all fines imposed by District Courts for violation of Territorial law shall be subject to the judge of said court to pay fees with.

"That proof of cohabitation, or acknowledgment of the existence of the marital relation by the party accused, shall be sufficient to sustain prosecution for plural marriage.

"That U. S. judges appoint county commissioners, or examining and committing magistrates, whose fees for Territorial cases shall be paid out of the Territorial treasury.

"That the U. S. Judges fix their own time and place for holding district courts for the transaction of Territorial business; U. S. courts to have exclusive original jurisdiction in divorce cases.

"And that should the Territorial Legislature fail to make provision for the fees and costs which are to be rated by the U. S. judges, then the same shall be paid out of the funds appropriated by Congress to defray the expense of the Territorial legislature." (*Mill. Star,* Vol. XXXV, p. 137). In the title the intention of the bill was declared to be—"To promote justice." Its true title would have been: "A scheme to enable the federal officials appointed from Washington to prey upon the people of Utah, and eat out their substance." It was in large measure the Voorhees house bill of the previous congress, in large part section by section and word for word; but instead of its provisions being confined to Utah they were extended to the Territories of the U. S. R. N. Baskin of Utah was the real author of the Voorhees Bill, and therefore indirectly the author of the Logan Bill.

81. See Chicago *Tribune* of Feb. 7th.

82. The bill was an ill considered measure, hastily passed in the senate by a vote of 29 to 10. It was in aid of the passage of this bill that President Grant sent his special message of Feb. 14th to congress. Throughout the session President Grant had exerted his personal influence to secure anti-Mormon legislation. "Yesterday," says Geo. Q. Cannon in his journal entry of Feb. 4th, (1873), "Pres. Grant went to the capitol * * * It was soon noised abroad that Utah affairs had called him there. He had interviews with the judiciary committees of the senate and house, and told them that there must be legislative action on Utah. * * * Grant is reported to have said, 'If the fourth of March came without legislation, he would put his troops into Utah and nail the thing by that means'." Memorials both for and against the passage of this legislation were sent from Salt Lake City: one signed by "the members of the legal profession residing in Utah," setting forth the alleged inadequacy of the laws of Utah; (presented in the house by Mr. Merritt of Idaho, [see Congressional Globe of Feb. 4th, 1873]); a second in which both Mormon and Gentiles joined signed chiefly by Lawyers (Gentile and Mormon), merchants and bankers. It is an able review and refutation of the one sent by "the members of the legal profession"; and is published in the *Deseret News*—Weekly—of March 5th, 1873, see also Congressional Globe February, 1873, *passim.* Geo. Q. Cannon—who was in Washington at the time aiding Captain Hooper in the last months of that gentleman's last term as Utah's delegate—of this

journal entry of Mr. Geo. Q. Cannon in relation to their manifest vexation on the failure of the house to pass the Frelinghuysen bill. Monday, March the third, the Bill was not reached—Congress would adjourn the next day. "Our enemies," wrote Mr. Cannon in closing that day's record, "were swearing mad. Merritt said we had bribed the speaker and that d—ed old Bingham [chairman of the house committee on Territories]. Claggett and Maxwell were also furious." Here follows Mr. Cannon's record for the closing day of the congress:

"*March 4th*:—This morning they commenced at the calendar. The two bills were soon passed, then came the Frelinghuysen bill; but Mr. Sargent, of California, objected to the consideration of so important a bill when there was no quorum present. It was laid aside informally; and from that time until 11.30, when upon motion, it was decided to transact no more legislation, it could not be reached. Business of various kinds was attended to, but that could not be got up. Our enemies were raging. Maxwell said he would take out British papers and be an American citizen no longer. Claggett asserted that we had spent $200,000 on the Judiciary Committee, and Merritt swore that there had been treachery, and we had bribed congress. But I praised and thanked God, who was our friend and mightier than they all. By seemingly small and insignificant means he had brought to pass marvelous results, and to him all the glory was due."[83]

The House was more prolific than the Senate in offering measures to solve the Utah difficulties.

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memorial of the "members of the legal profession," said: "We found by comparing the references made in the memorial to the laws with the laws themselves, that they have quoted laws which have been repealed, they have quoted as laws of Utah extracts which have no existence, they have garbled laws and they have left out the context of laws. The whole is a tissue of misrepresentation and falsehood. This is the constant practice of our enemies—to lie and misrepresent." (Journal of Geo. Q. Cannon, entry for 5th Jan., 1873. Quoted in Hist. Salt Lake City, pp. 602-3).

83. Hist. Salt Lake City, p. 607. Mr. Linn in his "Story of the Mormons" wrongfully accredits this journal, which he quotes from Tullidge, to delegate Hooper (p. 571). Mr. Tullidge was given permission to publish the entries from Mr. Canon's daily journal from Jan. 28th, 1873, to March 4th of the same year. Those entries give a very full and vivid description of this effort to pass anti-Mormon legislation. On the 22nd of Feb. Cannon records that Captain Hooper met Gen. Sherman in the senate Chamber; the later told Captain Hooper "that he had said to Grant with whom he had attended a dinner party, that his action in relation to Utah was all wrong. For this advocacy of our cause," adds Mr. Cannon, "they have laughingly called him a Mormon." "We have a perverse and unscrupulous enemy in John P. Newman, the Senate Chaplain," adds Mr. Cannon in closing his journal entry for the above date. (*Id.*)

Mr. Wm. A. Wheeler, of New York, later to become Vice-President of the U. S. in the Hayes administration, introduced a bill in April, 1872, "to promote the purity of elections in Utah." It proposed to eliminate woman suffrage, and placed the election machinery in the hands of the governor of the Territory.[84] Daniel W. Voorhees, of Indiana, in April, 1872, introduced a bill "to aid in the enforcement of the laws in Utah." Its general intent was to take the control of the local courts from the officers as provided by the laws of the Territory, and give it into the hands of the federal appointees.[85]

In the midst of this flood of proposed legislation for Utah, one measure is quite generally overlooked, that is worthy of mention, and of a permanent place in Mormon and Utah history. It was the bill introduced into the house by Mr. James G. Blair, of Missouri, and supported by him in a speech delivered on the 17th of February, 1872.

It deserves this place in history both for the boldness of the measure itself, and the ability with which it was maintained by the speech of Mr. Blair.[86] It proposed:

"1st. That all marriages heretofore solemnized in the Territory of Utah, under and in accordance with the rules and regulations of the Church of Jesus Christ of Latter-day Saints, and children born under such marriages, be, and the same are hereby legalized. . . .

"2nd. That all prosecutions now pending in any of the courts of said Territory on account of such polygamous marriages be, and the same are hereby dismissed, and the jurisdiction of said courts over such cases is hereby withdrawn."

As stated the bill was ably sustained by Mr. Blair and reviewed the marriage institution as related to the Mormon people as inhabitants of Mexico before the U. S. jurisdiction extended over them; and he recommended the passage of his bill on the ground of public policy.

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84. Congressional Record, of Apl. 3rd. The Bill complete is published in *Deseret News*—Weekly—of April 17, 1872.

85. Congressional Record of Apl 1st. The Bill in full is published in *Deseret News* of April 17, 1872.

86. The speech will be found in Congressional Globe of Feb. 18th, 1872, and is published in full in *Mill. Star*, Vol. XXXIV, p. 257.

A large assembly of women in Salt Lake City, for themselves "and in behalf of the ladies of Utah generally," on the 2nd of March, adopted resolutions approving Mr. Blair's bill, and expressing their admiration for the bold and manly position he had assumed and fearlessly maintained.[87] Mr. Blair, however, had the distinction of standing alone among the members of the house in advocacy of his measure.

In the spring of 1873 Mr. S. A. Merritt from the neighboring Territory of Idaho introduced a bill very drastic in its nature, and one which very much resembled the Cullom bill which had failed of passage in the previous congress.[88]

None of these measures were enacted into law, much to the disappointment of their authors. Their historical importance and the justification of mentioning them in these pages consists in the exhibition they afford of the volume of opposition which in these years was launched against the Church of the Latter-day Saints, the persistence of it, the high national characters who engaged in it, and the bitterness of it. This opposition culminated in the next congress in the passage of the Poland Bill, which was approved on the 23rd of June, 1874. It took its name from Mr. Luke Potter Poland of Vermont, who introduced it, and while it was less drastic than any other of the bills introduced into the previous congress, it nevertheless was the beginning of that series of congressional enactments which nearly destroyed for years every vestige of local self-government in the Territory of Utah.

The Poland law took from the probate courts all criminal, civil and chancery jurisdiction. These courts, since their creation in 1852, had been the courts of the people, the courts in which they had confidence because created by law enacted by their own legislature, and whose judges were men of the vicinage—of the county—and whose interests were permanently

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87. *Mill. Star,* Vol. XXXIV, pp. 270-1. The resolution indorsing the Blair Bill said:

"*Resolved*—That we consider the bill a truthful and able instrument, and the speech in support of it a most noble effort in behalf of the rights of conscience and religious liberty, involving the peace, purity and happiness of domestic life—a conclusive argument in support of the sacred constitution of our country, and a living honor to the name of its author." (*Id.*)

88. A synopsis of this bill will be found in *Mill. Star,* Vol. XXXV, p. 136.

identified with the community; their criminal jurisdiction had stood for nearly a quarter of a century against the lawlessness of the transient population that drifted into the Territory, and they were the bulwarks of the community's peace and good order.

The office of Territorial marshal and of the Territorial attorney general were abolished by assigning their functions to the U. S. marshal and his deputies, and the U. S. district attorney and his assistants, although the legality of the Territorial law creating these offices had been twice affirmed by the decision of the U. S. supreme court.[89] Making up the lists for grand and petit juries was intrusted to the clerk of the respective district courts and the probate judge of the county in which the court was to be next held; and from these lists names were drawn by the U. S. marshal or his deputy in open court. The jurisdiction of justices of the peace was extended; appeals would lie from the Territorial courts to the Supreme Court of the United States in criminal

89. The History of the organization of these courts, with a defense of their legality and the decision of the U. S. supreme court affecting the legislation creating them is given in this Hist. Chapter LXXX. An elaborate opinion worked out for the benefit of the Utah legislature, and in response to a resolution by that body, was presented to the speaker of the house by Judge Z. Snow, long the Territorial attorney general of Utah, it is dated the 5th of Feb., 1874, and will be found complete in *Deseret News*—Weekly—of Feb. 25, March 4th and 11th. The opinion is exhaustive and the collection of all *data* of record up to that time is complete. It includes the decision of the Supreme Court in Snow-Hempstead case of Oct., 1873—Wallace reports. A very fine review of this whole subject will be found in the Memorial of the Mormons and non-Mormons against the Frelinghuysen bill before referred to, *Deseret News*—Weekly—March 5th, 1873.

Later, namely on the 16th of Nov., 1874, and therefore after the passage by congress and approval by the President of the Poland Law, depriving the Utah probate courts of "a general jurisdiction in civil and criminal case and both in chancery and at common law," (approved June 23rd, 1874), the U. S. Supreme Court handed down a decision which denied the rightfulness of the general jurisdiction in civil and criminal cases which the Territorial courts had exercised. (See Wallace reports, p. 375-384. Fred T. Perris *vs.* Wm. G. Higley *et al* (Baskin cites it "Ferry," etc., Reminiscences, p. 59). It was a serious matter to decide that courts of a quarter of a century of existence—22 years, to be exact—had no such jurisdiction; and if in the exercise of that jurisdiction there had been several instances of conviction of capital punishment and execution and all the judgments and decrees rendered in said courts were void, as contended by Mr. Baskin in his Reminiscences, then the responsibility must rest with congress which held a veto power upon the Territorial legislation, and upon the supreme court which several times had that legislation before it for consideration. According to Mr. Baskin himself the very issue of the jurisdiction of said courts had several times been presented yet the court had "avoided" the question of jurisdiction and determined the cases on other issues. Under all the circumstances History has a right to ask: "How far was the court swayed in its determination of the non-jurisdiction of the Utah probate courts by the passage of the Poland bill which took from them this jurisdiction?

cases where the accused was sentenced to capital punishment, or convicted of bigamy or polygamy. The U. S. marshal was authorized to appoint as many deputies as he might deem necessary, and the U. S. district attorney as many assistant attorneys as he found needful; "and the costs and expenses of all prosecutions for offenses against any law of the Territorial legislature shall be paid out of the treasury of the Territory." The supreme court of the Territory was authorized to appoint commissioners of said court, who shall have and exercise all the duties of commissioners of the district courts of the U. S., and to take acknowledgment of bail, and in addition they shall have the same authority as examining and committing magistrates in cases arising under the laws of Utah as then possessed by justices of the peace in said Territory.[90]

There are other details, but the features of the law here mentioned are those which most affected the civil and political rights of the people of Utah. Before the measure's enactment into law, *viz*, on the 16th of February, Geo. Q. Cannon, Utah's delegate in congress, presented a memorial from the Utah legislature asking that a Congressional Investigating Commission be sent to Utah with instructions to inquire into all alleged abuses in the Territory's affairs, with authority to send for persons and papers needed in the prosecution of their inquiries, and to suspend action on all "special legislation for Utah" until after the investigation and report of the commission. This because a large majority of the people of Utah were untruthfully accused of disloyalty, insubordination, and other violations of the Constitution and laws of the United States. The Memorial denied the charges and challenged their proof. The Memorial was submitted to Governor Woods but he refused to join in the petition of the legislature, and it was accordingly sent to Washington without his signature. Mr. Cannon presented it to the house, as above stated, and it was referred to the committee on judiciary. On the 18th of February it was presented to the senate by Mr. Sargent, of California; but no action was

90. Complete Enactment see compiled laws of Utah, 1888, Vol. I, pp. 101-107.

taken with reference to it in either house,[91] beyond referring it to the appropriate committees.

As already stated the Poland law was a much less radical measure than others proposed in the previous congress, and therefore a disappointment to the "Utah Ring;" but under its provisions the federal judiciary officers began activities and entered upon prosecutions for polygamy.

In September two arrests for polygamy were made at Beaver, in the second judicial district. In October George Reynolds was indicted at Salt Lake City by the grand jury of the third district (of which more later); and in the following month (doubtless for political effect) Geo. Q. Cannon was arrested at Salt Lake City for the same offense, but his case was later dismissed (April 2nd, 1875), prosecution being barred by the U. S. statute of limitations.[92]

On the 25th day of February, 1875, the case of Brigham Young *vs.* Ann Eliza Webb Young, came before the third district court. Ann Eliza Webb Young, the plural wife of the President at the instigation of members of the "Utah ring"—Geo. R. Maxwell being named in the title of the case as "her next friend planting suit"—had in 1873 brought suit for divorce from Brigham Young. In her complaint she alleged neglect, cruel treatment, and desertion; and also set forth that Brigham Young had property worth $8,000,000, and an income of not less than $40,000 per month. The plaintiff asked an allowance of $1,000 per month during the trial of the suit, $6,000 for preliminary counsel fees, $14,000 more on final decree, and that $200,000 he finally awarded her for her maintenance. The defendant in his answer which was not filed until the 25th of August, 1874, denied all the charges of neglect, cruelty and desertion alleged by plaintiff; and said respecting his fortune that

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91. See Congressional Globe of the 17th and 18th of February, 1874. The Memorial with Governor Woods veto message will be found in *Deseret News*—Weekly—Feb. 11th, 1874. The Governor's contention was that the Territory needed the special legislation then pending in congress; that the laws of the Territory as they then stood were inadequate to the protection of the citizens' rights; that there was usurpation in the powers granted to the probate courts; that the questions now attracting public attention in Utah are matters for judicial investigation alone (*Id.*).

92. The full decision will be found in *Deseret News*—Weekly—for 7th April, 1875, p. 153.

according to his best knowledge and belief it did not exceed $600,000, and that his gross income from all his property and every source did not exceed $6,000 per month; and denied that $1,000 or any other sum exceeding $100 per month would be a reasonable allowance to the plaintiff even if defendant was under any legal obligation to maintain her. Evidently the object of the suit was extortion.

The third district court over which Judge McKean presided, on the aforesaid 25th day of February gave an extended review of the case and ordered defendant to pay the plaintiff $3,000 to defray the expenses of prosecuting this action; and for her maintenance $500 per month, "to commence from the day of filing of the complaint herein."[93] It was ordered that the lawyer's fees for prosecuting the action be paid in ten days, and the alimony to the plaintiff be paid in twenty days.

Clearly under the law divorce and alimony could only lie where a legal marriage subsisted between the parties, and in this case that legal marriage did not subsist, for two reasons set forth in defendant's answer: First, for the reason that, although unknown to the defendant at the time of the ceremony of plural marriage with the plaintiff,—6th of April, 1868—she was the legal and undivorced wife of one James L. Dee; and, second, for the reason, that the defendant himself on the 10th day of January, at Kirtland, Ohio, 1834, was lawfully married to Mary Ann Angel, who was still living and was the defendant's lawful wife, all which the plaintiff knew both when said plural marriage ceremony was performed and long prior thereto.[94] The defendant admitted, however, that he and the plaintiff were on the 6th of April, 1868, members of the Church of the Latter-day Saints "and that it was a doctrine and belief of said Church that members thereof might rightfully enter into "plural or celestial marriage," and accordingly plaintiff and defendant were married under such sanctions.[95] That, however, did not constitute a legal marriage, as well known to the

93. The decision *in extenso* will be found in *Deseret News*—Weekly—of March 8th, 1875, and is doubtless in legal annals a curiosity.

94. See defendant's answer in full *Deseret News*—Weekly—of Sept. 2nd, 1874.

95. *Ibid.*

parties at the time. Under the law of the land it was illegal from the beginning. There could be no divorce therefore; and there could be no ground for alimony, unless the court was prepared to hold the plural marriage a legal ceremony, and the status of Brigham Young and the plaintiff legally man and wife, and legalize Mormon plural marriages.

The answer of Brigham Young in this case,—while conceding that it takes advantage of a technicality of the law—is justifiable because the suit was manifestly brought for the purpose of extortion, was vexatious in its character, and intended persecutingly to prosecute Brigham Young rather than to vindicate law or settle a principle.[96]

With the state of facts before him, as herein set forth, Judge McKean gave the decision and issued the orders as above stated. Brigham Young acting under the advice of his counsel did not pay the counsel fees ordered to be paid within ten days; whereupon he was brought into court on the 11th of March to show why he should not be fined for contempt of court in failing to comply with the order of the court to pay the counsel fees. His answer was that he was advised by his counsel that he was entitled to an appeal from said order of the court, and that pending the determination of such appeal the execution of the order and decree so appealed from may, by law, be stayed; that such appeal had been taken to the supreme court of the Territory, and that a good and sufficient undertaking for the purpose of staying the execution of the said order pending the appeal had been filed; that his failure to comply with the court's order was solely to obtain the benefit of said appeal, and not at all to treat contemptuously the orders or decrees of the court.

The counsel of Brigham Young twice asked that he might be excused from personally remaining in court during the argu-

96. "Every technicality," said a current *Deseret News* editorial, commenting on President Young's answer, "is taken advantage of to persecutingly prosecute and convict us, and it is our perfect right, if we choose to exercise it, to take advantage of every technicality that the law permits in defending ourselves. * * * When we are attacked in this way, we have every natural and moral right to take advantage of every available circumstance in defending ourselves in emergencies, at our discretion, and this is a matter in which our known enemies need not expect to be consulted, nor to have their remonstrances heeded." *Deseret News*—Weekly—of Sept. 2nd, 1874.

ments of the case, on account of the feeble state of his health; that he was willing to give bond for his appearance whenever required. The only answer to these requests deigned by the court was that the arguments would doubtless be brief. At the conclusion of the arguments the Judge wrote out his decision which was read in open court, announcing that Brigham Young was adjudged guilty of contempt of court and sentenced to pay a fine of $25, and that he be imprisoned for the term of one day—twenty-four hours.[97]

The attorney's fees of $3,000 were paid immediately by Mr. James Jack, Brigham Young's chief secretary. President Young was already in the custody of a U. S. deputy marshal, and at the conclusion of the hearing called at his residence where clothing and other necessities for his convenience while in prison were obtained, and then, accompanied by his physician, Dr. Seymour B. Young, the Mayor of Salt Lake City, Daniel H. Wells, and a clerk from his office, Mr. Rossiter, he was driven through a snow storm to the penitentiary; where, for a short time, he occupied with a dozen or more convicted criminals and men awaiting trial, the only cell in the prison; but later was removed to a room attached to the warden's quarters, and here he spent the night. The friends who accompanied him remained at the warden's house. At the expiration of his sentence, March 12th, he came forth from the penitentiary and was quietly escorted to his home by a number of his friends who went out to meet him.[98]

How much personal malice prompted this action against Utah's great Pioneer, each one will judge from the circumstances, but there went up from the country such a shout of protest against this action that not even President Grant with all his firmness could longer hold Judge McKean in his place; and five days after he had passed this malicious sentence upon Brigham Young he was removed from office by the appointment of a new chief justice for Utah. Maxwell, the registrar of the land office, who had been especially active in this divorce proceeding in Young *vs.* Young, was also dismissed from office by

97. For court proceedings in full see *Deseret News*—Weekly—of March 17th, 1875.

98. Hist. Salt Lake City, pp. —.

the appointment of a new registrar.[99] The removal of Judge McKean, "and that of the registrar of the land office in Salt Lake," said the press dispatch from Washington, announcing the removals, "are caused by what the President deems fanat-

99. In addition to his activity in the divorce case of Young *vs.* Young, Maxwell had rendered himself obnoxious in his administration of the land office, in Washington as well as at Salt Lake City. Unsettled conditions prevailed for a number of years. Of this condition Mayor Wells in an interview with the Cincinnati *Commercial* correspondent in Utah said: "It is no fault of the United States Government that we are not now peacefully possessing the titles to the ground we have redeemed, and which Congress wishes us to retain. It is the fault of the unrelenting Land Register here, Maxwell, who has entertained and abetted every petty and malicious claim contesting our right to the site, and who hinders the entry of our city, apparently with the object of being bought off or of discouraging us, or even of robbing us of it.

Correspondent:—Give me the names of all the claims which Maxwell has entertained against the city.

Mayor Wells:—Well, there are the Robinson, Slosson, Williamson and Orr cases. Robinson was a retired surgeon of the army, who kept a billiard saloon and was a sporting man here. He jumped the Warm Springs property, our public bath houses on the outskirts of the town, with eighty acres of environing land, although we had walled up the spot, dammed the warm stream, fenced the enclosure and used it so long under municipal regulations that the pump cylinder with which we tubed the spring had rotted away. Robinson put a tent and a guard by the spring and built a fence within our fence—a most impudent attempt to jump our property. We removed his obstructions and he embarrassed us at law until his death, when his widow continued the suit, and the land agent actually permitted her to make a cash entry of the place. Very differently did the Washington authorities behave. The Commissioner of the Land Office decided without hesitation in our favor and the Secretary of the Interior confirmed it.

Correspondent:—What was the Slosson claim?

Mayor Wells:—Slosson was a fellow who first rented a quarter section of ground from the city, on the road leading to Camp Douglas, and when he undertook to keep a rum shop on it, in violation of law, we ejected him. He was then abetted by this Maxwell, in a bare-faced attempt to claim it and enter it; Maxwell's decision was reversed by the heads of department at Washington.

The other two claims are even more preposterous, yet they are received and considered, and instead of disposing of them, Maxwell spends his time acting as volunteer counsel against us in criminal cases before the United States Court. Williamson jumped a bit of ground, claiming (it under) the preemption laws, and put a shanty upon it. It was a spot we had long previously reserved for a parade ground. J. M. Orr, a lawyer here, filed also Chippewa scrip for eight acres between Ensign Peak and Arsenal Hill, half a mile from the heart of the city. Now, scrip can only take up land for agricultural purposes, and this claim is impudent beyond degree, but this land register entertains it, refuses to decide it, and so keeps back our entry. We are nearly or quite twenty thousand people; our city is as old as many great towns in the Mississippi valley; but here men are allowed to pre-empt farms right in the midst of us as if they meant to plow us under.

Correspondent:—What should I suggest, General Wells?

Mayor Wells:—Why the General Land Office ought to instruct this devilish Maxwell not to entertain these paltry claims, each of which is a paltry reproduction of claims already thrown out. The Government means to encourage the formation and building of towns, but this agent vetoes the law in the case of the largest town ever established on the public lands." Such were the annoyances to which the early settlers were subjected by federal officers sent from eastern states to administer their affairs. The *Commercial* is quoted at length by Whitney, Hist. of Utah, Vol. II, Ch. XXII.

ical and extreme conduct on the part of these officers as evidenced by their violent attacks on Governor Axtel (since Dec. 28th, 1874, Governor of Utah, vice Geo. L. Woods, who failed of reappointment)[100] and on certain senators who recommended his appointment, *and by several acts of McKean, which are considered ill advised and tyrannical, and in excess of his powers as a Judge.*"[101]

Judge McKean continued his residence in Utah, and practiced law, but with no great amount of success; and about three years and a half after his dismissal from office,—*viz.,* January *5th,* 1879,—he died of typhoid fever.

Great private and public virtues are claimed for the character of James B. McKean by his friends,[102] and far be it from this History to detract one iota from what is justly due to his career and character; but those who would represent him as "among the most upright of judges, and disinterested patriots," a "model judge in every respect;"[103] or who say that his career in Utah Territory "marked an era in its annals—a very bright page in its history,"[104] have to reckon with the facts of his usurpations of judicial powers, his rulings and decisions in the courts of Utah, not warranted under the law, and which were overthrown by the unanimous decisions of the Supreme

100. Woods sought most earnestly for reappointment, but failed. The dispatch quoted above in the text said that Woods was, at the above date (March 16, 1875), making efforts to obtain either the superintendency of the San Francisco mint, or some foreign mission, "but he is regarded as an impecunious place hunter, without chances of success." And yet such a character had been imposed on Utah as governor for four years!

101. Washington Press Dispatch, 16th of March, 1875, *Deseret News*—Weekly—of March 24th, 1875, p. 116.

102. See Biographical sketch and eulogium by Mr. Fred Lockley published in the Salt Lake *Tribune* of Jan. 7th, 1879; also memorial address by R. N. Baskin, whom McKean appointed U. S. district attorney, as seen in the text of this chapter; also a series of resolutions adopted *ad interim* as stated in the text of this chapter; also a series of resolutions adopted by the Salt Lake Bar Committee; and an address to these resolutions from the bench by Judge Jacob S. Boreman; published at the time in the Salt Lake *Tribune* of 19th January, 1879. All this matter is collected in Tullidge's *Quarterly Magazine* for April, 1882, under the title *"Judge McKean,"* with fine steel engraving. "As a citizen," said R. N. Baskin, in his eulogy of him, "he was without blemish. Free, literally free from every vice; punctual in his engagements, fair in his dealings, truthful in his statements, honest in his convictions, sincere in his professions, ardent in his friendships and earnest in his devotions." "He was a man of elegant and winning address," said Judge Boreman, "a firm friend, a thorough gentleman, and one of great moral worth and purity of character." This from the eulogy cited above.

103. All from R. N. Baskin, see note 102.

104. Boreman—see note 102.

Court of the United States. They have to reckon also with his outrageous rulings in the Young *vs.* Young divorce case, where, in order to harass and humiliate one who had fallen under his displeasure, he departed from the plainest principles of law, which, connected with the manifest malice in sending Brigham Young to prison, cost him his official head. History is concerned with Judge McKean in his career as a public officer, and what boots his private virtues of temperance and general uprightness in private life, if by guidance of a half-insane prejudice and an overpowering bigotry, and intense hatred of a system of religion which does not meet with his approval, he is led by his fanaticism into usurpations of authority and the wresting of the law to gratify his personal malice?

"He was a Judge with a mission." According to Tullidge, "In January, 1872, in the Ebbett House in Washington (D. C.), Judge McKean avowed his principles to Judge Louis Dent, brother-in-law of the President, in these precise words: 'Judge Dent, the mission which God has called upon me to perform in Utah, is as much above the duties of other courts and judges as the heavens are above the earth, and whenever or wherever I may find the local or federal laws obstructing or interfering therewith, by God's blessing I shall trample them under my feet.' "[105]

Mr. Tullidge does not further particularize this incident than his statement of it as quoted, but the career of James B. McKean as chief justice of Utah Territory was in strict accordance with the expressed determination; and there can be no doubt of his avowal of it to Judge Louis Dent.[106] Whatever

105. Life of Brigham Young, or Utah and her Founders, 1877, p. 420-1.

106. Whitney in his History of Utah summarizes into a statement the quotation of Tullidge, quoted above, but without citation to his source of information. Judge Baskin in his Reminiscences denounces Whitney's statement as "libelous matter," and adds this comment: "That any Judge of intelligence or rectitude would utter the disgraceful, discrediting and absurd language attributed to Judge McKean in the foregoing quotation, is too extraordinary and improbable to admit of belief, especially on the uncorroborated statement of a historian as unscrupulous as Whitney has shown himself to be." (Reminiscences, p. 46). But Whitney is not uncorroborated as shown from the statement of Tullidge in the text above; and besides, the declaration to Judge Dent is in strict harmony with Judge McKean's conception of the mission character of his Judgeship when he said from the bench—"While the case at bar is called 'the People *vs.* Brigham Young,' its other and real title is 'Federal Authority *vs.* Polygamic Theocracy' * * * a system is on trial in the person of Brigham Young." (Court Record Third Dis-

may be claimed for Judge McKean's private life and character let us hope that the desire of his friends to have him regarded as the model of "an upright Judge" will continue to meet with disappointment.[107]

Following is the record that remains of the divorce case of Young *vs.* Young:

The successor of Judge McKean as chief justice of Utah was David B. Lowe, of Kansas. On his arrival in Salt Lake City in April he was assigned to the third judicial district and on the 24th of that month Brigham Young was brought before him to show cause why he should not be punished for contempt in not paying the $9,500 accumulated alimony allowed to Ann Eliza Webb Young by his predecessor, Judge McKean. After hearing arguments in the case the court held that "In all cases of divorce the law was plain and the authorities overwhelming that alimony could not be awarded unless a valid marriage was either first admitted by the parties or proved.[108] The defendant had alleged in answer that the marriage in question was a bigamous and polygamous one, and the allegation not being denied, must be taken as true. . . . The decision of the

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trict Court, September term 1871). In view of the evidence on the point, and the corroboration to his statement, Mr. Whitney may very properly and effectively appropriate the characterization of Judge McKean's utterance made above by Judge Baskin, as to the "disgraceful, discrediting and absurd language" of the passage in question.

107. Ex-District Attorney Bates in summing up the judicial administration of Judge McKean, presents the array of facts thus: "The five years of judicial maladministration of McKean in Utah may be summarized as follows:

"1st—$100,000, of United States public money, belonging to the Department of Justice, have been squandered there.

"2d.—No Mormon has ever been convicted, during that period, of any offense against the laws of the Territory, or of the United States, except:

"3d.—The case of the United States *vs.* Geo. Reynolds, for polygamy, where the verdict of guilty was found by a jury, nine of whom were Mormon polygamists; and the witnesses who furnished all the evidence, including the plural wife herself, were all polygamists—which case is expected to go to the Supreme Court of the United States, where the validity of the Act of 1862 will be finally settled, as it would have been in 1872, had not the plan then agreed upon been frustrated by the Federal officials in Utah.

"4th—These illegal prosecutions, including the false imprisonment of Brigham Young and the leaders of the people, have cost them in counsel fees, loss of time, and injuries to their business at least $500,000.

"5th.—The panic and alarm created thereby in the States of the Union, and the fear of a collision between the authorities and the Mormon people have driven or kept away millons of dollars of capital." (Ex-U. S. Attorney Bates quoted in Hist. Salt Lake City, pp. 619-20).

108. Deseret News—Weekly—of May 12, 1875: "The decision . . . is considered by members of the bar generally to be the most learned opinion ever delivered from the bench in this Territory." (*Id.*)

court was that the writ of attachment be denied and the order be set aside."

That decision did not settle the case. Judge Lowe resigned and was succeeded by J. Alexander White; but before his arrival in Utah the case was taken before Judge Jacob S. Boreman sitting in the third district who re-adjudicated the matter decided by Judge Lowe and ordered the defendant imprisoned until the sum of $9,500 be paid. As the court did not order that the imprisonment should be in the penitentiary, the U. S. marshal exercised his discretion and held his charge in custody at the prisoner's own residence. On November 12th a writ of *habeas corpus* was taken out before Judge White, who held that the action of Judge Boreman was unauthorized and void, and President Young was delivered from the custody of the marshal. Judge White remained in Utah but three months, his appointment had not been confirmed by the senate, and his name was withdrawn by President Grant in March. Judge White was succeeded as chief justice by Michael Shaeffer, and the vexed question of alimony came before him; the accumulated sum now amounted to $18,000; but Judge Shaeffer reduced the alimony *pendente lite* to $100 per month, which reduced the accumulated sum to $3,600. This the defendant, on the 31st of July, 1876, was ordered to pay, or in default thereof an execution would issue against his property to satisfy the order. Said order was allowed to issue and the alimony so paid.

In April, 1877, the divorce case came to trial, the result of which was no other than could have been foreseen from the beginning, *viz.,* that the polygamous marriage between parties was null and void under the law of the land from the beginning. All orders of temporary alimony which had not been complied with, paid or collected, were revoked and annulled, but the costs were assessed against the defendant.

This case was malicious and vindicative, and instituted purely for extortion and for the vexation and annoyance of Brigham Young. It was brought into court against the plainest principles of law, and its record is a disgrace to those who instituted it.

ERRATUM

In the October number of "Americana" the first line on page 836 should read as follows:

These portraits are now in the possession of Rev. John Cornell, who received them from his mother, Mrs. Isaac Cornell, to whom they came from her father, Richard Bancker Duyckinck, who received them from his aunt, Mrs. Peter Jay.

DECEMBER, 1914

AMERICANA

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AMERICANA

December, 1914

The Richmond Family

ACCORDING to the best authorities in genealogical research, the Richmond Family that has been so conspicuously identified with English history for nearly eight centuries, and whose members have acquitted themselves at all times bravely and brilliantly, had its origin in Brittany, France. Like most names of families, in England as well as elsewhere, the word was originally a designation of place. In its native language it was derived from the words *riche* and *monte* or *monde*. There is now a prominent French family of the name of Richemonte that sprang from the same stock, and it has been noted as an interesting example of heredity that its members bear striking resemblance to those of the English and American Richmond lines. After the name was adopted as a surname it was variously spelled, in the early English history of the family, as Rychemonde, Richemount, Richemonte, etc.

The Richmonds from whom the American branch was derived have been traced in English history to the time of the Norman invasion. For several centuries these early progenitors, generation after generation were notably associated with the great events of the kingdom, and much of their early history was closely entwined with that of the famous Richmond Castle. From Richmondshire, where the English family originated, branches of it spread to other parts of England, in which its members achieved much distinction and became foremost in the affairs of their successive generations. One of these renowned British lines was that of Ashton-Keynes, whence came *John Richmond,* who emigrated to America in 1635 and founded the family that has enjoyed prominence in various branches on this side of the Atlantic during more than two and one-half centuries. Although

some authorities express uncertainty as to whether John Richmond was born in Ashton-Keynes, Radborne, or Christian Malford, he was certainly of Wiltshire. There is no doubt among genealogists who have given attention to the derivation of the English stem that the Wiltshire Richmonds were descended from the Yorkshire Richmonds, who came to England with William the Conqueror. Representatives of the family were first settled in Yorkshire on lands given to them by the king. In a later generation a younger branch went over into Wiltshire, and from that cadet line came the American offshoot.

In the northwest corner of Yorkshire, England, in the district of Richmondshire, stands Richmond, the ancient market and parish town, two hundred and thirty-four miles from London. Richmond is famous for the ruins of its great castle, which, as well as the town, was built by the first earl, Alan the Red, son of Hoel, count of Brittany. The place derives its name—etymologically, rich mount or rich hill,—from the beauty of the elevation on which it rests. In the early Norman times it was the chief locality and feudal capital of the district of Richmondshire. Until the end of the feudal system the Richmond Castle, which dominated the town, both as regards its location and in the fact that it gave general distinction to the place, was one of the strongest inland fortresses existing anywhere in England. The earls of Richmond, who also were dukes of Brittany, were the wealthiest and most powerful among the nobles of Yorkshire.

No section of Great Britain is more picturesquely beautiful than the country immediately surrounding the town of Richmond. Bold rocks are everywhere conspicuous in the landscape, clothed with trees and shrubs. From the hills about are charming prospects in all directions. The castle, which still makes the town noted, although situated one hundred feet above the Swale River, seems from the hills to be sunken in a deep valley. The eye ranges over the extensive plains of the vale of York far away to the eastern and western moors.

Richmond Castle was not mentioned by name in the Domesday Book, and no reference to it is found in the early annals. In the recapitulation of the Domesday Book the statement is made that Earl Alan has one hundred and ninety-nine manors

in his castelary, which goes to show that the castle was then in existence. It is a matter of record that during the life of William the Conqueror Earl Alan gave the chapel from the Castle of Richmond to the Abbey of St. Mary of York, which he had founded. Accordingly the castle must have been in existence at the date of the Survey, inasmuch as that was only a year before the death of William.

Situated on the south side of the town, Richmond Castle overlooks the Swale River which runs in a deep valley at the foot of the hill where the ruined structure stands. Between the river and the site of the castle, and about six hundred feet perpendicularly above the bed of the Swale, is a walk from eight to nine feet wide. From this walk one gets a sense of the great elevation of the site and the castle above the immediately surrounding land. Farther above the walk some forty or fifty feet is the ground on which the castle stands. On the side toward the river the elevation is faced with massive stones made to resemble a cliff of natural rock. On the eastern side of the castle yard the Swale also skirts the property. At the latter spot, however, the descent is not as precipitous as on the south; there is a downward gentle slope to the river for a distance of some forty to fifty yards. The west side of the once almost impregnable fortress faces a deep valley, the ascent from which to the castle is exceedingly steep. Approach from this point, in the period when the castle was indeed a fortress, must have been well-nigh impossible. On the north the site of the castle is elevated only slightly above the level of the town, and it was from this side only that it could have been accessible to an attacking enemy in the good old feudal times.

The castle even yet appears majestic in its ruins. The keep, of which the shell has been preserved almost entire, is about a hundred feet high, and the walls are eleven feet thick. A great stone column supports the lower story in the middle, and from it spring circular arches closing the top. A broad staircase extends upward, but now reaches only the first chambers, the rest being dilapidated, as the floors of the two upper rooms have long since fallen in. In this keep is a well of excellent water. Ruins of several other parts of the castle remain. In the south-

eastern corner of the area is a great tower, in which is a dismal dungeon thirteen or fourteen feet deep, and undoubtedly designed as a place of confinement. The grounds about the castle are some six acres in extent, and over them sheep now peacefully graze. The mighty edifice which centuries ago sustained the shock of hostile invasion, was the defense of prince and province, and resounded with the gaiety of multitudes is now only a mass of ruins that make a picturesque object in a landscape of inimitable beauty.[1]

Richmond Castle was built by Alan the Red, duke of Brittany, who was a near relative of William the Conqueror. The records give several different accounts of the beginning of this family and the founding of the earldom of Richmond. "Alan, Dux of Brittany, the sprightly young gentleman who, in 1075, besieged the Conqueror while he was besieging the city of Dol," "for the release of that potent monarch, who abandoned his tents and baggage to get out of the way, obtained the fair hand of the Conqueror's daughter Constance, with the magnificent honor of Richmond. 'The nuptials were celebrated with great pomp, and the bride was dowered with all the lands of Chester, once the possession of the unfortunate Earl Edwin, who had formerly been contracted to one of his sisters.' " Thus writes one of the chroniclers of the founder of this noble family.[2]

Says another historian of Alan the Red, "He was kinsman of William, duke of Normandy, and accompanied that prince in his expedition to England and was rewarded with the land of the Saxon Earl Edwin, which consisted of no less than nearly two hundred manors and townships. This donation was made A. D. 1070, at the time when William was employed in the siege of York, which the said Edwin, earl of Chester, and the Northumbriam Earls Morcar and Waltheof, bravely defended against him."[3]

Edwin was the earl of Mercia; Morcar was his brother and Waltheof was the governor of York. Together they defended the town against the besiegers for more than six months. Another historian puts it in this fashion: "William was so pleased

1. Thomas Allen's "History of York."
2. "Some Historic Mansions of Yorkshire," by W. Wheater.
3. Thomas Allen's "History of York."

with the great prowess of Alan that for his military services he created him an earl by investure with sword and noble dignity."[4]

Alan, duke of Brittany, who founded the Richmond line, was not a son or nephew of William the Conqueror, as some authorities have asserted, but was his second cousin. The first earl of Richmond was not Alan Fergeant. He and his brother Eudo were grandsons of Conan Tortus. Eudo had six sons, among whom were Alan Rufus, Alan Niger, and Stephen. Alan Rufus was the first earl of Richmond, but dying without issue Alan Niger succeeded to the title, being duke of Brittany as well as earl of Richmond.

For several generations the earldom and Richmond Castle remained in the possession of the descendants of its founder. In the succeeding centuries it was given to other owners and attracted again and again by the sovereign. In 1436 the earldom reverted to the crown and continued in possession of the king until Edwin, half-brother of Henry VI., was created earl of Richmond. His wife was the celebrated Margaret of Richmond, and their son, who succeeded to the throne as Henry VII., took the inheritance of Richmond and kept it for his life. In 1525 Henry VIII. conferred the earldom upon his natural son, Henry Fitzroy, with the title, which was then created, of duke of Richmond. Henry Fitzroy died without issue and the title slept until 1613, when the earldom was revived by James I. The title and estate are now held by the Lenox family. They were conferred upon Charles Lenox, the illegitimate son of Charles II., who was created first duke of Richmond in 1675.

Thus the title has experienced numerous vicissitudes, and the lineages of various noble families, totally unrelated to one another, at least in primary respects, and especially unrelated to the true Richmond lineage of original descent, have become associated with it by the circumstance of purely arbitrary creations in the course of the centuries.

Concerning Alan the Red, the Battle Abbey Roll says: "Alain le Roux or Alan the Red, son of Eudo, count of Brittany, 'in his very youth was a little famous for his valor.' He led the division of the Conqueror's army comprising the men of Brittany

4. Wheater's "Historic Mansions of Yorkshire."

and Maine, that formed the left wing of the Norman army at Hastings, October 14, 1066. He was granted immense manors in Yorkshire, which became the great honor of Richmond, the name given to the soke or manorial lands, known in the Saxon language as Gilling. The Castle of Richmond is thus associated with the immediate origin of the surname and family of Richmond."

"Le roy servit et ama et il bien le guerdona; Richmond li dona el north Bon Chastel et bel fort en plusieurs en Engleterre li rois de donna sa terre."[5]

Conan IV., earl of Richmond, was born in July, 1138. He succeeded to the title as the fifth earl, March 30, 1146, and married Margaret, a sister of Malcolm IV., king of Scotland. His daughter Constance, countess of Richmond, was born in 1163. She was patroness of St. Mary's Abbey, York; Jowauex Abbey; Rowney Nunnery, County Hertford; Abbey of Carnoet and Coetmaleon; she died September 4, 1201.

The ancient coat of arms of the Richmond Family (A. D. 1066) is Gules, three bars gemeles or, a chief argent. *Motto*—Resolve well and persevere. These arms are now borne by the Cumberland Richmonds. According to Burke's "General Armoury," the arms of the Yorkshire Richmonds are Two bars gemeles or, a chief argent.

The later coat of arms of the Richmonds, to which the family of Richmond, alias Webb of Stewkly, Buckinghamshire, and of Redborn and Wiltshire, are entitled, is Argent, a cross patonce fleury azure, between four mullets gules. *Crest*—a tilting spear argent, headed or, broken in three parts, one piece erect, the other two in saltire, enfiled with a ducal coronet. *Motto*—Resolve well and persevere. One family substitutes for the four mullets in the coat of arms four estoiles.

According to Burke's "Seats and Arms," the crest was won by Sir Philip Richmond by a feat of arms in single combat with a Saracen prince during the crusades, before Jerusalem, in the presence of Richard I., Cœur de Lion. The ducal coronet in the crest may have come from the family being of lineal descent from Edward I., or it may have been derived from Alan Rufus,

5. "The Battle Abbey Roll," by the duchess of Cleveland, vol. iii, p. 81.

the first earl of Richmond, or from some other ducal alliance in later generations. Authorities differ on this point.

The ancestors of the American Richmonds were, if tradition may be credited, related to Alan Rufus the first earl, who built the castle. They were not in direct line from Alan, but for several successive generations were lords of the manor and constables of the castle owned by their noble relative. That they were originally of royal descent is not much questioned by English genealogists. Francis Thackeray, uncle of William Makepeace Thackeray, was descended from the Richmonds of Wiltshire. He compiled a record of the Ashton-Keynes-Radborn branch, which corresponded with the recognized English ancestry of the American branch, except that he came to the conclusion that the American Richmonds descended through Roald, son of Roaldus. On the contrary, General Plantagenet-Harrison asserts his confident belief that the American line descended from Alan, son of Roaldus, le Ennase, claiming that his son Roald had no children.[6] A generation ago Colonel John Richmond Webb, of the Wiltshire Richmonds, said that he "could prove lineal descent from Edward I. and that his first ancestor, Roaldus de Richmond, rode by the side of William the Conqueror at Hastings field." He added, "We were gentlemen when the Churchills were horse-boys."

First of record in the line of English ancestors leading to the American Richmond Family, of which Dean Richmond was the foremost representative in the last generation, was.

Roaldus Musard de Richmond, who was with William the Conqueror at Hastings. He was one of the most powerful leaders accompanying the Norman invader into England in 1066.

Hasculfus Musard de Richmond, son of the preceding, held in demesne Keddington and Chilworth, Oxfordshire, Stainbury, Gloucestershire, and other lordships at the time of the General Survey, according to Dugdale.

Roaldus de Richmond, le Ennase, son of the preceding, was second constable of Richmond Castle under Alan III., earl of Richmond; he was seized of lands in Skeeby and Croft, by the gift of King Henry, who likewise gave him the manor of Pick-

6. Allen's "History of Yorkshire."

hall, and other holdings, which he in turn gave in marriage with a daughter to Jolanus de Neville. He was lord of Burton, Aldborough, and most of his uncle Emsart's lands, by a grant of King Stephen, Emsart being the first constable of Richmond. He founded an abbey on his manor of Easby in honor of St. Agatha in 1152, and there he was buried with his wife, Graciana.

Sir Alan, son of Roald de Richmond, was the third constable of Richmond Castle. In the first year of the reign of Richard I., 1189, he owed the king two hundred marks for the custody of the castle. In the fourth year of the reign of Richard I., 1193, he paid ten marks and owed one hundred and ninety. In the third year of the reign of Richard I., he as surety for Walter de Lasselles. In the second year of the reign of John, 1201, he gave the king three hundred marks, and three palfreys to be constable of Richmond Castle, to hold the same for himself and his heirs. Soon after he was disseised, but in the ninth year of John, 1208, he gave the king two hundred marks and four palfreys to have the castle again and with it the king's letters patent granting him military jurisdiction.

Sir Roald de Richmond, son of the preceding, was the fourth constable of Richmond Castle. In 1208 King John gave to him various lands, including the manors of Caldewell, Croft, Kipling, and others, and also a mill and lands in Skeeby. The letters patent granted these lands to him and his heirs forever. He entailed the manors of Burton, Aldeburgh, and Croft upon his son Roald in the latter part of the twenty-fourth year of the reign of Henry III., 1240.

Alan Richmond de Croft, son of the preceding, received from his brother the manor of Burton. He claimed lands in Roppele, Clareworth, Wurthington, and Newland, county of Lincoln, in right of his wife, in the forty-third year of the reign of Henry III., 1259. He married Mathilda, daughter and coheir of Peter de Goldington and coheir of Simon de Roppele, lord of Roppele, Lincoln County, of the time of Edward I.

Sir Roald Richmond de Croft, son of the preceding, received from his uncle Roald the manors of Caldwell and Croft. He died in the forty-sixth year of the reign of Henry III., 1262. One authority[7] makes this Sir Roald to have been the son of Sir

7. *"Honores de Richmond,"* Gales.

Roaldus de Richmond, fifth constable, brother to Alan, son of Roald de Croft. Sir Roald Richmonde de Croft married Isabella, daughter and heir of Robert, son of Osanna de Langthwayt, by Isabella his wife.

Eudo de Richmond, son of the preceding, had possessions in Staynwriggis, county of York.

Elyas de Richmond, son of the preceding lived during the reign of Edward III. (1327-77).

Elyas de Richmond, son of the preceding, lived during the reigns of Edward III. and Richard II. (1327-99). His brother, *Richard de Richmond,* succeeded him, and married Elizabeth, daughter of William de Burgh, lord of Burgh. Upon Richard and his wife Elizabeth William de Burgh entailed the manor of Burgh near Catterick, County York, in the twenty-third year of the reign of Edward III. (1350).

Thomas de Richmond, son of Richard de Richmond and his wife Elizabeth, was living in the times of Richard, Henry IV., and Henry V.

William de Richmond, son of the preceding, lived at Draycott. He married, about 1430, Alice, daughter and heiress of Thomas and Elizabeth (Nicholas) Webb of Draycott, Wilts County. Upon his marriage he assumed the name of Webb and quartered the Webb arms.

William Richmond, alias Webb of Draycott, son of the preceding, married Joan Ewen, daughter of John Ewen of Draycott. His will was dated April 24, 1502.

William Richmond, alias Webb of Stewkley Grange, Bucks County, married, 1st, Dorothy Lymings, daughter of John Lymings of Notts County, and 2d, Marjory Choke, daughter of John Choke of Shelborne, Wilts County. He was living in Wilts in the reign of Henry VIII., for he is recorded as having bought lands there in 1541 and 1545.

Edmund Richmond, alias Webb of Durnford, Wilts County, was living in 1575. He married Mary Weare, daughter of Robert Weare, alias Brown of Marlborough.

Henry Richmond, alias Webb, son of the preceding, lived at Christian Malford, Wilts County. He was married four times and had twenty-five children. From this Henry Richmond are

descended the Richmonds of Ashton-Keynes, England. The manor of four hundred acres, and the entire village of Ashton-Keynes, once belonged to this branch of the family. In the eighteenth century the manor house was the home of Oliffe Richmond. In 1768, by marriage of Bridget Richmond (granddaughter of Oliffe Richmond), to Edward Nichols, the property passed into the possession of the Nichols Family, and in 1856 it was sold to the duke of Cleveland.

John Richmond, eldest son of the preceding, was an officer in the Civil War between King Charles and the parliament. The story is current in the annals of the family that there were two brothers, John and Henry, who had engaged in this war, one of them being with King Charles and the other a soldier of Cromwell. The celebrated Rev. Legh Richmond, author and rector of Turvey, Bedfordshire, wrote much concerning his ancestry, and in one of his manuscript letters is recorded this tradition concerning the two brothers:

"On the night preceding one of the engagements, Henry, his brother, went into the camp of the other army, eluding the vigilance of the sentry, and reached John's tent, in the hope of enjoying an affectionate interview, previously to the uncertain events of the morrow. On entering the tent, John, alarmed at the sudden appearance of a stranger, as he conceived Henry to be, rose upon his bed and shot him dead on the spot." Some authorities say that John Richmond killed himself in remorse for this act, while others have it that he abandoned the family estates and fled to parts unknown. There were fragmentary rumors that he exiled himself and engaged in business pursuits under another name in the northern part of England. However that may have been, an interesting speculation, that seems to have much of soundness and reason in it, connects him with the American Richmonds, as will now be seen.

I

JOHN RICHMOND, the first American ancestor, was born about 1594 in Ashton-Keynes, Wiltshire, England. He was a man of affairs and ample means when he came to the new world

in 1635, and he settled in Taunton, Mass., of which place he was one of the founders. He became a large land-owner and acquired considerable wealth. In the original purchase of Taunton, 1637, he owned six shares. He was absent from Taunton a great deal of the time, being recorded in Newport and elsewhere in Rhode Island. It is known he was in Rhode Island in 1655 and was a commissioner from Newport at the court of commissioners held at Portsmouth, R. I., in 1656.

In the manuscript of the Rev. Legh Richmond a tradition is recorded that the John Richmond of Ashton-Keynes, who shot his brother Henry Richmond, came to America in 1635 and engaged in business. Joshua Bailey Richmond, in his work, "The Richmond Family, 1598-1896, and Pre-American Ancestors, 1040-1594," refers to this tradition and says in connection with it that nothing is definitely known concerning the American John Richmond between the years 1643 and 1655. He thinks that this John Richmond may have been the John Richmond who came to Saco, Me., in 1635, and that he may have returned to England and engaged in the Civil War. He was called Colonel, which circumstance might also tend to identify him with the John Richmond of the Civil War.

He died in Taunton, March 20, 1664.

He was married in England, although no record of his marriage has been found as yet.

Issue:

1. *John Richmond,* b. 1627; of whom below.

2. Edward Richmond of Newport, R. I., b. about 1632, d. November 1696. He was an incorporator of Little Compton, R. I., 1674; general solicitor, 1657-69-70-2; attorney-general, 1677-8-9-80; deputy to the general court, 1678-9, and a lieutenant and captain of the militia. M., 1st, Abigail Davis, daughter of James Davis; 2d, Amy Bull, daughter of Henry and Elizabeth Bull.

3. Sarah Richmond, b. about 1638, d. 1691. M., 1st, Edward Rew; 2d, James Walker; 3d, Nicholas Stoughton.

4. Mary Richmond, b. 1639, d. 1715. M. William Paul of Berkeley, R. I.

II

JOHN RICHMOND, son of the preceding, was born in Ashton-Keynes, Wiltshire, England, about 1627. He was brought to this country by his father in 1635 and became prominent in Taunton, Mass., where he maintained his residence during his entire life. He was a member of the town council, 1675-6 and 1690. He was also a constable, commissioner, and surveyor, and for more than half a century was a member of every important committee and commission appointed to deal with the business of the town and colony. He was especially interested in many purchases of land from the Indians in Massachusetts and Rhode Island. It is supposed (but not certainly known) that he had two wives, the first of whom does not appear of record.

Died October 7, 1715, at Taunton.

Married (2d) Abigail Rogers, daughter of John Rogers of Duxbury, Mass. She was born in 1641 and died August 1, 1727.

[It is claimed by some that John Rogers of Duxbury was a brother of Thomas Rogers, who came in the "Mayflower" in 1620. Another authority thinks he may have been a son of Joseph Rogers, who was the son of Thomas Rogers, the "Mayflower" emigrant. Later investigations show that John Rogers of Duxbury, the father of Abigail Rogers, was a grandson of Thomas Rogers the emigrant. The line of descent is as follows:

Thomas Rogers, who came over in the "Mayflower," d. in 1621. He had these children: 1. Joseph. 2. *John.*

John Rogers, son of Thomas Rogers, b. in England; in Plymouth Colony in 1638, and later became a resident of Duxbury, Mass.; in 1657 was a representative to the general court of the colony from Duxbury; d. 1692. M., April 6, 1639, Anna Churchman.

John Rogers, son of the preceding, b. in 1640. He m. Elizabeth (Alden) Pabodie, daughter of William Pabodie and Elizabeth Alden, daughter of John and Priscilla (Mullens) Alden, who have been celebrated in Longfellow's poem. William Pabodie or Peabody was a son of John Pabodie, who was b. in England 1590 and came to Plymouth Colony about 1635, being

one of the original proprietors in England of the colony. John and Elizabeth Richmond had these children: 1. Abigail, b. 1642, m. *John Richmond.* 2. Anna or Hannah. 3. Elizabeth.]

Issue of John and Abigail (Rogers) Richmond:

1. Mary Richmond, b. June 2, 1654, in Bridgewater, Mass., d. March 5, 1732. M., January, 1679-80, Richard Godfrey of Taunton.

2. John Richmond, b. June 6, 1656, in Bridgewater, Mass., d. September 20, 1672.

3. Thomas Richmond, b. February 2, 1659, in Newport, R. I., d. September 14, 1705, in Middleboro, Mass.

4. Susanna Richmond, b. November 4, 1661, in Bridgewater, Mass., d. August 18, 1725. M., April 18, 1683, James Reed.

5. Joseph Richmond, b. December 8, 1666, in Taunton, Mass. M., June 26, 1685, Mary Andrews of Taunton.

6. *Edward Richmond,* b. February 8, 1665; of whom below.

7. Samuel Richmond, b. September 23, 1668, in Taunton, Mass., d. 1736. M. 1st, December 20, 1694, Mehitable Andrews; 2d. Elizabeth (King) Hall.

8. Sarah Richmond, b. February 7, 1670-1, in Taunton, Mass., d. November 27, 1727. M., October 6, 1699, James Walker.

9. John Richmond, b. December 5, 1673, at Taunton, Mass. M., November 28, 1709, Harriet Otis.

10. Ebenezer Richmond, b. May 12, 1676, at Newport, R. I., d. 1729. M. Anna Sproat.

11. Abigail Richmond, b. February 26, 1678, d. February 23, 1763. M., July 29, 1708, Nathan Walker.

III

EDWARD RICHMOND, son of the preceding, was born in Taunton, Mass., February 8, 1665. He died in 1741.

Married, 1st, Mercy; 2d, Rebecca Thurston; 3d, Mary.

Issue (by first wife):

1. Mercy Richmond, b. 1693 in Taunton, Mass., d. January 27, 1760. M. Edward Walker.

2. Edward Richmond, b. 1695 in Taunton, d. February 16, 1771. M., 1st, Elizabeth R. Deane; 2d, Elizabeth (Shaw) Sampson.

3. *Josiah Richmond,* b. 1697; of whom below.

4. Nathaniel Richmond, b. about 1700 in Taunton; killed in the Louisburg expedition. M., November 2, 1732, Alice Hackett.

5. Seth Richmond, b. in Taunton. M. Lydia Haskins.

6. Phoebe Richmond, b. 1706 in Taunton, d. March 9, 1741-2. M. Noah Elliott.

IV

JOSIAH RICHMOND, son of the preceding, was born in Taunton, Mass., in 1697. He died in 1763.

Married, 1st, Mehitable Deane, daughter of Benjamin and Sarah (Williams) Deane and granddaughter of Walter Deane, who emigrated from England. She was born June 6, 1697, and died February 5, 1745. Married, 2d, Lydia (Eddy) Crocker.

Issue (by Mehitable Deane):

1. Mary Richmond, b. in Middleboro, Mass., d. 1785. M., January 6, 1738, Captain Philip Leonard.

2. *Josiah Richmond,* b. 1711; of whom below.

3. Gershom Richmond, b. in Middleboro. M., July 30, 1747, Phœbe Richmond, who d. 1803.

4. Benjamin Richmond, b. 1727 in Middleboro, d. February 27, 1803. M., 1st May 30, 1751, Silence Deane; 2d, Lydia (Hall) Comstock.

5. George Richmond. M., October 5, 1751, Hannah Caswell.

6. Miriam Richmond, b. in 1732, d. 1813. M., 1st, Elisha Walker; 2d, Samuel Ray.

7. Lemuel Richmond, b. 1733 in Middleboro, d. April, 1802. M. Molly (Richmond) Lincoln.

8. Ephriam Richmond, b. February 12, 1735, in Middleboro, d. October 14, 1816. M., March 27, 1766, Ann Deane.

9. Eleazer Richmond, b. February 27, 1737 in Middleboro, d. February 27, 1802. M., December 5, 1765, Deborah Barrows.

10. Zeriah Richmond, b. in Middleboro, d. in Athens, Vt. M.,

November 2, 1772, Jeremiah Tinkham, Jr., one of the first settlers of the village of Athens.

11. Mercy Richmond, b. in Middleboro d. about 1811. M., December 5, 1747, Benjamin Hackett.

12. Mehitable Richmond, d. young.

V

JOSIAH RICHMOND, son of the preceding, was born in 1711 in Middleboro, Mass. He died in 1785.

Married, June 9, 1743, Elizabeth Smith of Middleboro, who died in 1803.

Issue:

1. Edward Richmond, d. May 26, 1748.

2. Phoebe Richmond, b. in Taunton, Mass. M., November 10, 1768, Job Townsend of Taunton.

3. *Josiah Richmond,* b. May, 1747; of whom below.

4. Mercy (or Mary) Richmond, b. in Taunton, d. July 21, 1784. M., June , 1774, Mathew Briggs of Dighton, Mass.

5. Walker Richmond, b. 1753 in Taunton, d. June, 1835. M., March, 1775, Mary Waldron of Dighton.

6. Edward Richmond, b. March 14, 1756, in Taunton, d. October 15, 1826. M., March, 1781, Olive Briggs, daughter of Eliakim Briggs of Dighton.

7. Nathaniel Richmond, b. April 13, 1766, in Taunton. M., 1st, about 1782, Mary Horswell of Fall River, Mass.; 2d, January 31, 1788, Abigail Wood of Middleboro; 3d, July, 1809, Azubah Cobb.

8. Abner Richmond, b. about 1769 in Taunton, d. April 18, 1813, in Barnard, Vt. M. Betsy Holmes daughter of Gershom Holmes of Plymouth, Mass.

9. Priscilla Richmond. M. Joseph Pierce.

10. Elizabeth Richmond, b. in Taunton, Mass. M., 1777, Asa Stephens of Dighton.

11. Hannah Richmond, b. in Taunton. M., 1st, 1781, Joseph Ware; 2d, 1790, Zephaniah Talbot.

VI

JOSIAH RICHMOND, son of the preceding, was born in Dighton, Mass., in May, 1747. He received from his father's estate a farm in Middleboro, Conn. This he sold in 1792, removing to Barnard, Vt. From there he went to Salina, now Syracuse, N. Y., in company with several of his brothers and other members of the family. During the Revolutionary War he was a soldier in the New York line. He saw much active service, and was taken prisoner, being carried to the island of Bermuda, where he was held captive until finally exchanged. It is told of him, in the annals of the family, that upon his discharge from the military service at the close of the war he was paid in continental money, and being very hungry that morning, gave forty-eight dollars of his hard-earned pay in the depreciated currency for his breakfast.

He died May 28, 1821.

Married Betsy Hathaway, daughter of Shadrach Hathaway of Elizabethtown, N. J. She was born about 1750 and died in 1835.

Issue:

1. Betsy Richmond, b. 1770 in Taunton. M. Job Richmond.
2. *Hathaway Richmond,* b. 1772 in Taunton; of whom below.
3. Edward Richmond, b. 1774 in Taunton, d. in Evansburg, O. M., 1st, Martha Nott; 2d, Sally McFarlane; 3d, Miss Bedell; 4th, Miss Atchison; 5th, Miss Harger.
4. Sarah Richmond, b. 1776 in Taunton. M., 1799, Richard Cheedle.
5. Josiah Richmond, b. in Taunton; drowned at the age of twenty.
6. Abner Richmond.
7. Phoebe Richmond, b. in Taunton. M., 1st, James Nott; 2d, John Finley.
8. Anson Richmond, b. February 24, 1790, in Taunton, d. September 23, 1834, in Salina, N. Y. M., June 20, 1820, Betsy Melvin, daughter of Captain Moses Melvin.
9. John Richmond, b. July 25, 1792, in Taunton. M., 1st, Dinah Harwood; 2d, Abigail (Skillings) Averill.

10. Sybil Richmond, b. December, 1797, in Barnard, Vt., d. 1853, at Brady, Mich. M. Darius Crippen of Salina, N. Y.

VII

HATHAWAY RICHMOND, son of the preceding, was born in 1772 in Taunton, Mass. He removed to Barnard, Vt., and from there joined the migration of the Richmond Family to Salina, N. Y., in 1816. He was interested with his brothers in the manufacture of salt and had an unusual talent for business, which evidently was transmitted by him to his distinguished son, Dean Richmond.

Died in 1821 in St. Louis, Mo.

Married, May 4, 1798, Rachael Dean, daughter of Elkanah Dean of Taunton, Mass. She died in Salina, N. Y., in 1821, the same year of her husband's decease.

Issue:

1. Betsy Richmond, b. 1799 in Barnard, Vt.
2. Frindey Richmond, b. 1801 in Barnard, Vt., d. 1853 or 1854 in Attica, N. Y. M., 1st, at Salina, N. Y., Benjamin Babbitt of Barnard, Vt.; 2d, Augustus Chester of Chicago.
3. *Dean Richmond,* b. March 31, 1804; of whom below.

VIII

DEAN RICHMOND, son of the preceding, was born in Barnard, Vt., March 31, 1804. He received his education in the public schools. His father died when he was only fourteen years of age, and the entire care of his mother and family and the management of the business left by his father fell upon the shoulders of the boy. It was at this period, at an age when most boys were yet in school, that the young Dean showed the material of which he was made. He at once took full charge of the business of salt manufacturing at Salina, N. Y., that his father had developed. With little else save the debts of the old concern and a capital composed of health and energy, he began his active life. From the outset he displayed rare capacity

for business and quickly won the confidence of his associates and of the public.

In less than a year the death of his mother left him altogether to his own resources. At that time the market for salt had, through various causes, become somewhat limited in that section, but the energy with which the young man pushed the sale soon extended to several new districts, particularly in the north and east, and ere long the business began to yield a satisfactory income.

Prospering in this enterprise, he embarked in others, in which also he commanded success. In 1842, at the age of eighteen, he removed to Buffalo where he engaged in the commission and transporting business, dealing principally with the products of the great west. Bringing to his business operations, which had then assumed great extent and importance, the wise foresight and judgment which characterized him throughout his entire life, he laid the foundations for the success that in the course of a few years made him one of the wealthiest and most influential men in the Lake region. Before he was twenty-one years of age his exceptional capacity for affairs was so marked that he was chosen a director of the bank at Salina, and when he was twenty-one he controlled, either by purchase or lease, all the salt works in Salina. From the time that he settled in Buffalo, his business was always located in that city and connected with the chain of lakes. In 1846 he became a resident of Attica, N. Y., but still maintained his business relations with Buffalo.

It was while located in Buffalo and in the midst of his active career in various lines of business that he made his first connection with railroad affairs. He became a large stockholder of the Utica and Buffalo Railroad Company, and was elected a director of that corporation. When the direct line to Batavia was completed he took up his residence at that place, which continued to be his home for the remainder of his life, although the headquarters of his business was still retained at Buffalo. His acute business judgment and keen insight into the future gave him, far in advance of most of his contemporaries, a sound idea of what the infant railroad systems of the country would event-

ually become, and he early attached himself to this line of transportation development.

One of the most important events of his railroad career was his connection with the New York Central Railroad Company, a connection that was not less advantageous to the company than it was to him. When the Erie Railroad was finished to Lake Erie, and the Pennsylvania Central had completed its tracks, it was apparent that the several companies which afterward composed the New York Central could not successfully compete with those great lines unless they were consolidated and operated as one system and by one controlling mind. Seven distinct corporations were each managed independently of all the others, which the sub-roads were controlled each by a single board of directors. Consolidation became, therefore, a matter of imperative necessity, for the line could not be advantageously maintained otherwise. In 1853 the bill creating the New York Central Railroad was carried through the legislature against a most determined and virulent opposition. Nothing but the sagacity, address, and perseverance of Mr. Richmond could have prevailed against this opposition. In the "History of the New York Central Railroad" the following reference is made to his achievement in this connection:

"When the Erie and Pennsylvania railroads formed their coalition, Dean Richmond was one of those who most clearly perceived the necessity for consolidation of the railroads of central New York in order to meet the competition of this formidable combination. He thus became a leader in the movement to unite the seven railroad companies, which, as consolidated in 1853, constituted the New York Central Railroad Company. Himself already one of the most conspicuous and influential leaders of the Democratic party in the state of New York, it was principally the personal influence of Mr. Richmond which secured from the legislature the enactment of the incorporation of the New York Central. He was at once elected vice-president of the new corporation, holding this position from 1853 until 1864, when he succeeded Erastus Corning as president of the company. He remained in this office during the next two years,

until his death. For many years he was also president of the Lake Shore and Michigan Southern Railroad."

While connected with the New York Central, the company relied most implicitly on Mr. Richmond's judgment, and never undertook any enterprise of importance without first submitting it to him for advice and approbation. His record as a railroad man is shown in the growth of that great property while under his control and the measures which he instituted or advanced for its improvement and enlargement. No matter what honor of labor or design may be given to others in the upbuilding of the great Central system, a large share properly belongs to Dean Richmond and is the monument of his railroad work. He labored at a time of uncertainty, discouragement, and difficulty, and his success was all the greater from the size and variety of the obstacles that he was compelled to confront. He was original, both in his ideas and methods. To him particularly belongs the credit of being the first American railroad man to adopt steel rails. Thoroughly convinced of their utility over the old iron rails, he met with much opposition when he proposed to introduce them, but was finally able to have a few laid on trial. He was so well pleased with the results that he placed in England what in those days was considered a large order. Unfortunately, however, he did not live to see his plans carried out, for the consignment did not arrive in this country until after his death.

Dean Richmond was not alone a railroad man. Actively connected throughout his exceptionally long career with many business enterprises, he was successful in everything that he undertook. A very considerable private business, to which he remained devoted throughout his life, was the shipping on the lakes, including the elevator system at Buffalo. At one time he owned large interests in the Western Transportation Company. In all business operations he had very decided views, and when once his mind was made up he adhered to his purpose with a persistence born of conviction and a firm belief in the surety of his judgment. Indeed, his judgment passed into a proverb among his associates, and was most implicitly relied upon, almost as if it had been infallible. His knowledge of business

affairs was not merely intuition, although he possessed this faculty in a wonderful degree, but it was also derived from close observation and sound experience and through precision of reflection.

Mr. Richmond's devotion to business did not lead him to ignore public affairs. He considered it a duty that every man owed to his country to interest himself in the national welfare, and held that it was especially important that business men should not lose sight of the gravity of national affairs as affecting their private interests. Although never forgetting that his private interests were of paramount importance and that his duty to his associates in business was the first demand upon his time and energy, he gave close attention to politics. His political convictions were strong and were steadfastly maintained, the marked characteristics of the man being displayed in this connection as conspicuously as they were in the business relations of his life. Possessed of great capacity for work, he gave careful attention to political affairs, no matter how absorbing were his business duties. In his earlier days he led the democrats of Onondaga County to victory, and in subsequent years entered into each new campaign in state and national politics with a zest and enthusiasm that inspired all who came in contact with him. Although a strong Union man during the Civil War, he always remained a democrat, and throughout his career held the fullest confidence of the state leaders of his party by virtue of his political acumen and sound judgment in matters of public and party policy. His successful organization of the democrats of Onondoga early brought him recognition, and his ability soon made him the leader of his party in the state. His motives were so sincere and honest they were never questioned, and his views, to a large extent, were unhesitatingly adopted by his associates and shaped their policy. For many consecutive years, from about 1857 until his death in 1866, he was chairman of the Democratic state central committee, and during that period exerted a greater influence in the Democratic party than any other man in the state. His success in dominating the Democratic party in New York State has become traditional, and his name is one of the most conspicuous in the annals of the party.

The prominent and unique relation to his party that Mr. Richmond held has been nowhere more clearly or forcibly shown than in the tribute offered to his memory by his intimate personal friend, the Hon. Samuel J. Tilden. In the Democratic state convention of September, 1866, Mr. Tilden, at the request of several prominent Democratic leaders, made an address upon the life work of Mr. Richmond. In the course of that address he said:

"It is rare in any country or in any age that the death of a private citizen, holding no public office, never having held a public office in his whole life, connected with great business interests, it is true, connected more than any other individual with the organization and administration of a great party, composed of nearly four hundred thousand American citizens—it is rare that the death of an individual so unobtrusive in his life, so quiet in his demeanor, should have sunk the people of an entire state under a sense of a great calamity, almost as if the first magistrate of the nation had died. A private citizen, largely endowed by nature with those qualities superior to anything that can be taught in the schools of learning, those great endowments of judgment—clear, decisive, comprehensive, of a will firm, decisive, and nicely balanced, of a caution and circumspection rarely to be found; with a man of this character and these rare qualities, a man of the people, untaught in the schools, it is surprising that he should acquire that extraordinary degree of influence which was possessed by our lamented friend. I remember very well in 1864, when the nation was anxiously looking for a candidate for the highest office in its gift, public opinion turned very generally to this gentleman. He was modest—modest in his estimate of his own capabilities and powers beyond what any of us who had happened to have opportunities of larger training in the schools would have thought necessary, for the things he possessed least he valued highest, and, as men have thought, too high. I remember when it was said, with every appearance of possibility, that he could be nominated for that high office with the concurrence of a very large number of the Republican party, with a tender of support from gentlemen as eminent as any in the country, but whose names it would be in-

delicate now to mention. Mr. Richmond firmly and persistently refused to entertain the idea. It is my firm conviction that except for that refusal his nomination was entirely possible and his election extremely probable. I remember he said with characteristic modesty on that occasion, 'I know what I am fit for and what I am not.' He formed a judgment, founded on his idea of what a man should be to undertake the duties of a chief magistrate in respect to the habit, training, and manner of life and education. He firmly and persistently refused all these tenders because he did not deem himself adapted to that station. Yet with his rare powers of discernment and judgment, his great skill in the selection of agents, for whatever purpose he chose to apply his faculties to, there can be no doubt that he greatly overrated his own deficiencies and greatly overvalued those opportunities which he had not himself, in his early career, enjoyed. So happily endowed by nature, and perhaps largely taught by the experience of his long and varied life, I think he was one of the best-formed and ablest men whom I ever had the opportunity to know, although it has been my opportunity to see some of the ablest men this country and state have produced for the last generation."

The Norman blood of the de Richmonds, commingling with the strenuous blood of the Deans of Scotland in the veins of Mr. Richmond, was preëminently the source of his quenchless energy and mental vigor and masterly physique. These combined to make him one of the foremost men of his age in his chosen avocations and in the political world.

In private life he displayed marked qualities of character that distinguished him quite as well as in his business and political relations. His goodness of heart was well known to all who came intimately in connection with him, and was especially remembered by many who had particular occasion to have personal knowledge of his disposition in this way. He was benevolent in a quiet way, and frequently, without being appealed to, would relieve distress in the most substantial manner. His acts of philanthropy were numerous, disinterested, and generous, and his name became as well known in New York for kindness of heart as it was for business ability and political astuteness and

sagacity. In his social relations he was a good friend, kindly and genial, while in the privacy of the family circle his noblest qualities shone with a brightness that only those who came in contact with him there could best appreciate.

He died in New York City, August 27, 1866. He had been living for the summer at the seashore with his family, and left there in company with his intimate friend, the Hon. Samuel J. Tilden, to attend the democratic convention at Saratoga. After the convention, in company with Mr. Tilden, he went to Philadelphia and Washington and returned to New York August 18. At Mr. Tilden's city residence in Gramercy Park, on the following day, he was taken seriously ill and died in a little more than a week.

Married, February 19, 1833, in Troy, N. Y., Mary Elizabeth Mead. Mrs. Richmond was born in Troy, N. Y., June 21, 1813, and died in Batavia, N. Y., April 6, 1895. Her father was Hathaway Mead and her mother was Electa Danchey or Danchier, of an old French family of distinction.

Mrs. Richmond was a woman of sterling qualities of character and developed very marked business ability. After the death of her husband, she managed skillfully and successfully the large properties that were left by him.

Issue:

1 Alfred William Richmond, b. October 1, 1836, in Syracuse, N. Y., d. November 17, 1881. M., 1st, in May, 1857, Mary L. Soper of Batavia, N. Y., who d. in September, 1874; 2d, in December 1875, Rosalind C. Morse. By his first wife Alfred William Richmond had, i. Catherine Richmond, b. November, 1858, d. September, 1859. ii. Dean William Richmond, b. February 19, 1860, m. Carrie Gale of Pontiac, Mich. By his second wife he had, iii. Rosalind A. Richmond, b. September, 1875; an accomplished pianist, violinist, and musical composer.

2. Harriet Richmond, b. October, 1838, d. August, 1839, at Saratoga Springs, N. Y.

3. Henry Augustus Richmond, b. August 3, 1840, in Syracuse, N. Y. He was at one time a civil service commissioner for the state of New York.

4. Adelaide R. Richmond, b. June 7, 1845, in Syracuse, N. Y. She resided in the old Richmond homestead at Batavia, N. Y., where she d. February 7, 1905. M., February 2, 1869, Dr. W. J. C. Kenny, who d. June 1, 1873. He was treasurer of the Buffalo *Courier* Company.

5. William Eugene Richmond, b. August 12, 1848, at Attica, N. Y., a resident of Buffalo. M., February 2, 1872, Clara Nims of Buffalo. Issue: i. Watts Lansing Richmond b. April 29, 1873. ii. William Eugene Richmond, Jr., b. April 29, 1875. iii. Adelaide K. Richmond, b. January 24, 1877. iv. Harold Richmond, b. September 19, 1878. v. Clara Richmond, b. April 24, 1880, d. May, 1883. vi. Francis Nims Richmond, b. September 9, 1887. vii. Dean Richmond, b. February 20, 1895.

6. Edward Gould Richmond, b. October 29, 1851, at Attica, N. Y.; graduated from the Racine College in 1874, and from the law department of Columbia College in 1878; became a banker and a widely known manufacturer and was president of the Chattanooga (Tenn.) Oil Company and of other large manufacturing interests. He was known throughout the south as one of the leading manufacturers and as a philanthropist, and was a gentleman of rare culture, nobility of character, and generosity of heart. D. November 29, 1903. M., June 19, 1889, Carrie Pfau of Cincinnati, O. Issue: i. Edward Dean Richmond, b. April 7, 1892. ii. Ruth Dean Richmond, b. February 12, 1896.

7. Edward Dean Richmond, b. October 29, 1851, in Attica, N. Y., d. September, 1852.

8. Dean Richmond, b. October 30, 1853, in Batavia, N. Y., d. February 2, 1885, in Batavia. Unmarried.

Old Essex as a Factor in the Settlement of The Great Northwest

By Russell Leigh Jackson

THE American Revolution ended with the signing of the Treaty of Paris, September 3, 1783. By one of the terms of this international agreement, Great Britain ceded to the independent colonies all the land east of the Mississippi River, with the exception of the island upon which the city of New Orleans is located.

By far the most important and valuable acquisition to the new Union was the great tract known as the Northwest Territory. Comprising what is now two whole states and parts of several others, this land has become through the efforts of the old pioneers who settled upon it the most productive and valuable of all our national domain.

The second largest city on our northern continent and fifth in the world, Chicago, sprung from a pioneer settlement in the wilderness of northern Illinois. The same might be said of St. Louis, Cleveland, Cincinnati and Louisville, the rapid growth of which may be attributed mainly to the sturdy qualities and energies of the first settlers who braved the perils of a three or four hundred mile journey through a land augmented with countless dangers from the Aborigines and lawless robbers and plunderers, the latter class of which caused full as much trouble as did the former.

Following the close of the Revolution, several states, principally Virginia and Connecticut, laid claim to over five millions of acres of this region, north of the Ohio River known as the great Northwest.

Congress recognized their claim and to settle the matter peaceably concluded treaties with the Indians and assumed en-

tire control of the whole area in the hope that it could be sold to settlers to liquidate the war debt.

"On June 16th 1783," says Prof. Archer B. Hulbert, "two hundred and eighty-five Continental officers . . . petitioned Congress for a grant of land west of Pennsylvania, between Lake Erie and the Ohio River."[1]

The subsequence of this petition was the organization of the Ohio Company at the "Bunch of Grapes" Tavern in Boston on March 3d, 1786.[2]

A company known as the Scioto Company headed by Colonel William Duer was also formed.

In a general way it may be said that the Ohio Company, headed by General Rufus Putman, Benjamin Tupper,[3] Rev. Manasseh Cutler and General Samuel Holden Parsons,[4] represented the New England interests in the land and the Scioto Company, the Virginia interests.

These two companies were to do the actual work of colonizing the land of which Congress or in other words, the United States, was nominally the proprietor.

In 1787, Congress passed an ordinance creating the land into a "Territory." On July 27 of the same year, an agreement was secured from Congress whereby one and a half millions of acres of fertile and excellent soil was secured to the Ohio Company and three and a half millions to the Scioto Company. Nothing remained but to populate the wilderness.

The alacrity with which this was done is marvelous. Pioneers flocked into the new territory in large numbers; cities were built in a remarkably short time and the energetic spirit of the "New West," so prevalent today, abounded on every hand.

The varying character of the immigrants who settled on the newly acquired soil was interesting to behold. There were scions of old and wealthy families of Virginia; there were Dutch

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1. "The Ohio River," by Prof. Archer B. Hulbert (1906) p. 168.
2. Citation from "The Old Northwest," by Dr. B. A. Hinsdale.
3. Benjamin Tupper, b. at Stoughton, Mass., 1738; d. at Marietta, O., 1792; Colonel, 1776; at Battle of Monmouth; Surveyor of Ohio lands, 1785; Judge, 1788.
4. General Parsons, b. at Lyme, Ct., 1737, s. of Jonathan Parsons of Newburyport. Harvard, 1756; appointed by President Washington, first Judge of the Northwest Territory; drowned in Big Beaver River, November 17, 1789, while returning from a mission to the Indians on Lake Erie.

planters from Pennsylvania and New York state and chiefly there were the sturdy, honest Yankees from old New England —New England, the instigator of the Revolution, which was the means of obtaining this vast area, now was foremost in populating and opening it up to civilization. The influence of Massachusetts and Connecticut, chiefly, was keenly felt. In the part played by Massachusetts in settling this land, the old county of Essex attained a lofty scale of prominence. This is not to be wondered at when the fact is brought to mind that the county was but maintaining her record of two centuries. Ever since the landing and settlement at Salem, Ipswich and Newbury, men of prominence in the government, the military and the ecclesiastical had hailed from Essex.

It is with this section of the state that I am to associate this present article, "Old Essex As a Factor in Settling the Great Northwest." The work of these farmers from the vicinity of the Merrimac River is in itself worthy of the highest possible commendation.

Could we but look down upon the little village of Ipswich on that cold, blustering third day of December in the year 1787, and see, slowly crunching the new snow as it moved at snail's pace through the village street and out onto the turnpike, the prairie schooner of Rev. Mr. Cutler; the vanguard of the hundreds of settlers who enacted the scene over again—that of emigrating westward.

What a sight it must have been, this old wagon with its hooped back covered with canvas, drawn by three or four horses, trailing after the men of the party, who cleared the way on horseback. And the townspeople who left their daily toil and gathered along the roadside and watched, with countenances which bespoke the pride that they felt for this courageous band, the departure for the unknown Ohio.

"The wagon which he (Rev. Mr. Cutler) had made ready as a protection from cold and storm and which preceded the company and their baggage was covered with black canvas and on its sides was the inscription in white letters:

'FOR THE OHIO AT THE MUSKINGUM.' "[5]

5. National Encyclopedia of American Biography, p. 70, vol. III.

Why they should have chosen December as the day of starting cannot be easily imagined. Admitting that they arrived in April, they made the journey in four months. How much pleasanter it might have been to have started in June and made the perilous journey during the summer months. I daresay game would have been more abundant as would have been fishing. But undoubtedly these strong men had their own reasons for setting out at the beginning of winter and travelling these several hundred miles in the cold season. This party comprised the forty-eight original settlers who founded the town of Marietta on the Ohio opposite the mouth of the Muskingum.

Proof of the hardships endured on the journey occasioned by the time of year may be learned from the following extract from the journal of General Rufus Putnam, the leader of the party.

"Nothing had crossed the mountains since the great snow and in the old snow twelve inches deep nothing but pack horses. Our only resource was to build sleds and harness our horses to them, tandem, and in this way with four sleds and men marching in front, we set forward."

Two weeks were spent in crossing the Alleghanies, the route being for the most part rugged and hard to follow. Who can make light of the wearisome journey undertaken by these brave men who set out from homes which were pleasant, from an environment to which they were accustomed, from all the pleasures that were to be had at that time, for a new life across the rugged mountains, to a land fraught with all the dangers and hardships of a wilderness such as the Ohio. Yet, the minds of these pioneers must even at that early day have been acquainted with the wonderful possibilities of the new west; some hidden instinct must have told them of the unseen advantages of the Ohio, the wealth which this land would some day bring to the United States and the importance which it would develop. The state which produced a Grant, a Hayes, a Garfield, a McKinley and a Taft surely is worthy of a great history and the work of the pioneers, principally the original forty-eight men who settled Marietta, can not be over-praised.

Even at that day there were many pessimists, those who de-

clared that it was foolhardy to emigrate westward, that there were no advantages to be gained, that the land would never be worth anything and no trade would develop, but on the other hand, as a general rule, the letters which the friends and relatives in the east received from the emigrants in the west were brimming with optimism, remarkable for those who had, doubtless, endured so much suffering.

One of the emigrants writes from Marietta, letter dated July 24, 1790, two years and three months after the settling of Marietta,

"—. . . I could never content myself to live in S— since I have seen this agreeable, fruitful and delightful country. I live in a country where many people say there will never be any market, but I think they greatly mistake for in the first place we are situated on the Ohio which is the main road which leads to Kentucke, Miami Falls and a number of other places which are settling as fast as ever any country settled. The most part of them stop here when they know they can be supplied at this place with provisions they will not lay in at the head waters so much, because to take it will save them the expense of bringing it down the river 200 miles. In the next place there is the extra trade route to New Orleans where at some times Flour is sold from thirty to thirty-five dolls a barrel, so I think people need not be afraid to come to this country. . . ."

Having secured from Congress permission to sell the land, the Ohio Company appointed sixteen persons, principally Revolutionary War Veterans, to act as agents, whose duty it was to dispose of the shares.

The upper Essex County Agency was invested in Mr. Edward Harris[6] of Newburyport, who had 31 shares, numbers 325 to 355, inclusive, to dispose of.

These were rapidly taken up, many of the share-holders being influential citizens of Newburyport, Exeter, N. H., and Hampstead, N. H.

6. Edward Harris, born in Newburyport in 1739; married Abigail Atkin; settled in Washington, Kentucky, where he was Postmaster, appointed by President Washington, 1797-1802. He was a son of Samuel and Abigail (Presbury) Harris. His daughter, Abigail Harris, m. Dr. John Johnston and was the mother of the celebrated Confederate General Albert Sidney Johnston. Mr. Harris died 6 April, 1825.

Among the Newburyporters we notice the celebrated "Lord" Timothy Dexter as the purchaser of five shares, the largest shareholder in this lot. His son, Samuel Lord Dexter, also had one share to his credit.

Capt. Ezra Lunt was second in the number of shares purchased. He afterwards sub-sold three of the shares to Benjamin Leigh, Jonathan Call and Edward Harris, of Newburyport.

The full number of shares sold by Mr. Harris, as given by Mr. Albion M. Dyer, A. M., in his article on "First Ownership in Ohio lands," which appeared in the New England Historic-Genealogical Register, vol. 65, pgs. is as follows:

5 shares, Timothy Dexter, Newburyport; 4 shares, Ezra Lunt, Newburyport, sub-sold to Benjamin Leigh, Jonathan Call and Edward Harris; 3 shares, Edward Harris, Newburyport; 2 shares, William Moulton and Dr. Jabez True, of Hampstead, N. H.; 1 share, Jacob Brown, Jonathan Call and Jabez True, Samuel Lord Dexter, Robert Laird, Joseph Moulton, Joseph Swasey, Jr., Stephen Swasey, Nathaniel Whitmore, Amos Whitmore, Ebenezer Whitmore of Newburyport and John Bond, Samuel Currier, of Hampstead, N. H., Jonathan Cass, Benjamin T. Gilman, Samuel Tenney, Thomas Odion, Dudley Odlin and B. I. Gilman, of Exeter, and James Donalson of Londonderry, Jeremiah Fogg of Kingston and Josiah Monroe of Amherst, N. H.

Many of these shareholders were of the original 48 pioneers of Marietta, while others bought merely for investment, as did "Lord" Dexter and his son, Samuel.

One interesting party from Newburyport who accompanied Rev. Mr. Cutler was Mr. William Moulton[7] and family, which included his wife, Lydia (Greenleaf) Moulton, his son, Enoch and two daughters, Anna, subsequently the wife of Dr. Josiah Hart, one of the first physicians of Marietta, and Lydia the wife of Dr. William Bouchier Leonard of Newburyport, who went to the Ohio in 1801. Dr. Leonard was at one time a Surgeon in the British Navy and was somewhat "peculiar" in his manners, dress, etc.

7. Mr. Moulton was born in Newburyport, a son of Joseph and Mary (Noyes) Moulton, a member of the old family of silversmiths, so well known in not only Massachusetts but the entire country. He died in 1793.

Capt. Lunt was another well known Newburyporter who was an original settler at Marietta. He is better remembered as the driver of the stage coach between Boston and Newburyport. Mr. Lunt's family did not make the journey westward with him, but remained in Newburyport. The dexterity with which "Lord" Dexter seized upon the opportunity to purchase shares in this enterprise was only characteristic of the man. His many other adventures which always turned to luck, are interesting to note. Invariably when any new scheme was thought of Dexter was a shareholder, such as the warming pan episode, and whether plausible or not, if Dexter purchased, others felt reasonably sure that the enterprise would be a success. His luck was always with him.

For thirty years after the first emigration to the Ohio, Newburyporters as well as other Essex County residents, flocked to the new land. Many of them were farmers and as business was at a standstill because of the war of 1812, they were glad of the opportunity to make a new beginning.

It may be truthfully said that those who went westward were, within a few years, greatly superior in financial resources to those who stayed in Essex.

As previously mentioned, the second war with England put a stop to all business. The embargo was laid on all exports and imports and the trade of the rope-makers, caulkers, sail-makers and others principally connected with the towns of Essex County, fell off to almost nothing. As Robert Leigh, an early emigrant writes, ". . . if business is as dull as it was when I left Newburyport I think I ought to content myself in the Ohio." Doubtless this expressed the sentiment of others.

In 1816, a party of Newburyporters left that town for the Ohio. It is probable that they started on the journey about January or February. Included in this were Jacob Swett and family. The route which they supposedly took lead out from Bromfield street, in Newburyport, down what is now High street, out through the lower road as far as the Four Rock road, where the residence of Mr. David Little is located, out this road as far as the Newburyport turnpike to Ipswich, and from there on over the route taken by Rev. Mr. Cutler and party in 1787-8. In

my own opinion, the Swett party chose a better time for their departure as warm weather was coming on.

The Swetts[8] were one of the old families of Newburyport, connected with the Carrs and the Boardmans, aristocrats of their day. Mrs. Swett, who was before her marriage, Mary Leigh, daughter of Mr. Benjamin Leigh and sister of Mr. Robert Leigh, previously mentioned, was a most excellent woman, of sterling Christian character and immediately became a prominent figure in the society of the little colony founded beyond the Alleghanies. She has left many letters which tell of her life in the west, extracts of which I will reproduce. Mr. Swett was a gentleman of no mean legal talent. He was chosen Justice of the Peace but was not desirous of a political life. His son, Dr. Jacob Swett became one of the early physicians of Marietta, as did his grandson, the late Dr. Isaac Conner Swett.[9]

Several months later, Samuel Swasey[10] of Newburyport, started for the Ohio, accompanied by his wife, Sarah Leigh Swasey and their two small children. Joseph Swasey, a member of the same family, also was an early settler.

The Swaseys are believed to have settled at Newburg, West Virginia, at least that is where they were when Mrs. Swasey's father, Benjamin Leigh made the trip. The latter mentions stopping to see his daughter when he emigrated in 1817, with his two sons, Robert and Benjamin Leigh, Jr., and his wife, Abigail Pierce Leigh and daughter, Anna Leigh.

As the wave of emigration increased, the perils of the journey diminished Even at such an early date as that in which Benjamin Leigh emigrated (1817) the hardships had been eliminated or greatly lessened.

Jacob Swett, Jr., afterwards Dr. Swett, in writing to his uncle and aunt Leigh in Newbury, under date of May 18, 1820, reminds them of "the old woman on the road who kept cake and ale to

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8. Jacob Swett, of Marietta and Athens, O., was born on Bromfield st., Newburyport, in 1775, son of Edmund and Hannah (Boardman)Swett. He married Mary, daughter of Benjamin and Abigail (Pierce) Leigh, of Newburyport.

9. Dr. Isaac C. Swett, born in Athens, O., son of Benjamin Leigh and Eleanor (Conner) Swett. He m. Rhoda Havener and Mary Bobo.

10. Samuel Swasey, of Newburg, W. Va., was born in Newburyport, in 1781, son of Stephen and Abigail (Knapp) Swasey. He married, Sarah Leigh, sister of Mrs. Jacob Swett.

sell." What a harvest of money these road-houses must have made, considering the stream of emigrants who crossed the mountains for forty years after the settlement of Marietta.

Mrs. Swett, under date of June 17, 1816, just forty years from the day of the first great battle of the Revolution, which wrested the land from Great Britain, relates some interesting facts which bear upon the early history of the country.

She mentions the fact that her home, like nearly all the others, was located in a very pleasant situation, where the boats pass and repass every day.

At the time of her writing, her parents and brothers had not emigrated. A little idea of how isolated and how far away from Newbury, the Ohio must have seemed at that date, we learn from her following sentence:

" . . . though I have crossed these rugged mountains and changed the climate, it has not changed my mind in this distant land, far from the spot of my birth, my attachment for my dear Newbury friends is as strong as ever; the anticipated separation from a beloved father and mother, affectionate brothers and sisters and other valued friends, strongly attaches my heart to those selected few, &c. . . . ."

Perhaps the final decision which caused Benjamin Leigh to follow his son-in-law to Ohio was partially through the fact that he did not wish to think of his daughter in a "distant land."

Benjamin Leigh was at that time nearing his sixty-third year, but his approaching old age did not bar his enthusiasm for adventure in the new land.

Behold the first Woman's Club! One cannot be surprised that the women folks of the community should wish to organize to talk over the scant amount of gossip which floated up and down the Ohio, from one settlement to another. Mrs. Swett writes,

"There has been a female meeting here for a number of months. They meet the first Wednesday in every month where they open and close the meeting with prayers, read good books and converse on religious subjects. We have eighteen or twenty that belong to the society, most all are church members."

She has made mention in one of her letters of an incident which has been the cause of some little discussion among authors

who have written anything concerning the early history of steamboats upon the Ohio and Mississippi Rivers. I refer to the steamboat "Washington," of which Henry M. Shreve was captain. The work of exploring the river was accomplished about the year 1810 by Nicholas J. Roosevelt, a great-uncle of Colonel Theodore Roosevelt, and two years later he was one of the gentlemen who founded the Ohio Steamboat Navigation Company, of which Robert Fulton, DeWitt Clinton and others were members.

Prof. Hulbert[11] writes, concerning the "Washington": "This boat was built under the personal supervision of her master, Captain Henry M. Shreve, the hull was built at Wheeling, partly from battle-scarred timbers of old Fort Henry; . . . the boat was a double decker . . . the boilers were placed on deck instead of in the hold as usual."

James T. Lloyd, author of "Steam Directory and Disasters on the Western Waters, etc." says that the "Washington" exploded and burned to the waters' edge in 1816, three months before her memorable first trip to New Orleans.

In support of this latter assertion of Mr. Lloyd, Mrs. Swett writes,[12] dated June 17, 1816.

" . . . one shocking circumstance that I was an eye witness to a few days since. The steam boat Washington arrived here Tuesday evening about 7 o'clock, where she anchored opposite the garden where we live. Wednesday morning they were all collected on deck for the purpose of starting at that unhappy fatal moment the end of the cylinder towards the stern exploded and threw the whole contents of hot water among them and spread death and torture in every direction. The captain, mate and several others were knocked overboard but were saved with the exception of one man who is still missing. Six or eight were nearly skinned from head to feet; one black man's skin came entirely off; there were seventeen in number that were scalt, seven died with their scalds."

This, undoubtedly, was the first great catastrophe with which

11. Prof. Archer B. Hulbert's "Ohio River," pp. 330-335.

12. Letter in possession of Russell Leigh Jackson of Newburyport, Mass., descendant of Mrs. Swett's brother, Benjamin Leigh.

the settlers had to do, and it surely must have lowered their estimation of steamboats.

As Marietta increased in population, other towns along the Ohio were founded. Among them were Salem, which came into being about 1800. Many of the settlers of this new township were original settlers of Marietta. Among the first Salemites were members of the famous Strong family, which supplied legal talent for the state of Ohio for half a century. Judge Horatio Strong, the father of the family, came originally from Connecticut, and was of the same family as Caleb Strong, Governor of Massachusetts. He kept a tavern at Great Bend, Pennsylvania, from 1787 to 1797. From 1797 to 1799, he was in Athens, Ohio, another new township.

In 1803, he removed to Salem, where he established salt works and died in 1831. He was Judge of the Court of Common Pleas in Salem. He had several sons, all of whom were prominent men. Among them were Hon. Daniel Strong and Hon. Jared Strong.

Benjamin Shaw, of Beverly, Massachusetts, was another early settler of Salem. He married Elizabeth Cushing, daughter of Beza Cushing, one of the first 48 pioneers of Marietta.

The Thompson family were also early settlers as were the Foggs and the Evets. Benjamin and Robert Leigh and the Swett family also removed to Salem.

Robert Leigh throws a little light on the early activities of Salem through a letter to his brother, Benjamin Leigh, Jr., of Newbury. He says:

"... Brother there has been great alteration since you were here. Mr. Ozias Strong has built him a frame house and Stephen Strong has a large brick (house). Cushing Shaw is building him a brick (house) 40 feet square and some others ... there has been ten families settled in this neighborhood within one year. Mr. S. Evets went to Lewisvill and attended (the writing here is illegible but it may be "session of court") and is getting rich very fast. He has been Justice of the Peace for a number of years and has been Assemblyman this two years past. . . "

Notice the frugality which the early settlers practiced and their

ever readiness to resort to nature for their food in an attempt to save money, in the following paragraph of Robert Leigh's letter.

". . . There is a tea plant which grows in the woods and when it is well cured the women cannot tell the difference from Young Hyson (tea) which saves the cash."

Another early settler writes,

". . . We have excellent fish in the river (Ohio) there was one caught here the other day that weighed ninety pounds. It was ten inches between its eyes; they are a very fat fish. Besides there is the Pike, the Buffaloe fish, the Perch, the Garr, the Sturgeon and the Eel. The woods also afford us the Buffaloe, whose meat is equal to any beef, his hide equal to oxhide for leather, his hair makes good hats, stockings or cloth, all of which I have seen made of their wool. There is also the Elk, the Deer, the Raccoon, the opposum and the wild turkies. . . ."

I must mention one interesting and ludicrous tale which has been handed down to me, concerning the wild turkeys of the Ohio land. They were large birds and very savage. The early settlers used to set traps or rather pit-falls for them to walk into. They were baited with raw flesh and the bird would walk on to secure the meat and his weight would carry him down into the trap.

Benjamin Leigh, Jr., son of Benjamin and brother of Robert Leigh, Mrs. Jacob Swett and Mrs. Samuel Swasey, accompanied his parents and brother to Ohio, in 1817. The story is told of the younger Benjamin Leigh who going out one morning during his stay in Ohio (he afterwards returned to Newbury) saw a turkey in the trap. Unaided, he attempted to capture the bird alive, and reaching down seized the bird by his legs, releasing him at the same time. The turkey immediately began to rise and started to fly off, carrying Mr. Leigh, who was considerably below the average in height, up with him. The timely arrival of his brother and some others prevented a catastrophe.

The following descriptions of the elder Mr. Leigh's farm (which I judge to be about the average of the other farms) is taken from letters written by his son, Robert and grandson, Dr. Jacob Swett, Jr.

" . . . Grandfather has cleared a large field on the rise before the house which he intends for an orchard, a vineyard and a hopyard. He has laid out a road through his farm, east and west to the new State road and the Athens and Gallia police (Gallipolis) road . . . we sowed about 10 acres and planted 16 of corn; we have about 200 apple trees and some of them begin to bear a little . . ." (This latter letter was dated June 1, 1824.) Another writes:

" . . . the bottoms . . . producing corn from 80 to 100 bushels per acre; the hills or highlands produce great crops of wheat, rye, oats, &c. Hemp grows exceedingly large; flax not so well."

. . .

In 1824, the postage on a two page 9x12 letter was 25 cents from Wilkesville, Ohio to Newbury. Eight years before (1816) the same rate was charged from Point Harmer (Fort Harmar) to Newburyport.

As might be expected in a small community, the resident families soon became connected by marriage. Various letters mention the marriages as they occurred.

The Swetts and the Parkers became closely allied, as did the Thompsons and Foggs with the Strongs. The Parkers and Booths also married with the Strong family.

The progress of the Ohio land in the past fifty years has been remarkable. While New England has been hampered with traditions and customs which have retarded her progress in recent years, the new West has taken her place and raised on high the beacon of progress and culture which has made her the centre of industry, farming and education.

"For Conscience Sake"

BY CORNELIA MITCHELL PARSONS

CHAPTER VI

A Visit to the Cave

"Truth forever on the scaffold,
Wrong forever on the throne.
But that scaffold sways the future,
And behind the dim unknown
Standeth God within the shadows,
Keeping watch above his own."

—Lowell.

THE sun rose gloriously the next morning. Frances was awakened by the call of the robins under her windows, and the twinkling of the cow-bells in the distance. She raised her head, thinking she was still dreaming. The wonderful golden hair was confined in the lace night-cap, the ruffle of which formed a frame for the sweet face. A dainty blue gown for the night, trimmed with ribbons and opened at the neck, displayed a white, delicate throat.

All yesterday seemed but a dream. Sir Henry expressing his love; the meeting in the wood of that terrible man from the "White Star," and then the message he brought.

The parchment was under her pillow. She felt for it, and pulled it out, translating the cipher as she read. "To Mistress Frances: Dear Child; I was wounded and brought here to the cave by an Indian maid, your friend. I am better now, but have little strength. Expect shortly to return to Old England. Therefore must see Lady Deborah Moody and yourself before I sail. Yours, obediently, Edward Whalley."

Frances arose, carefully dressing herself and joined the family. A smile was on her face; there were no traces of tears.

Sir Henry, as she entered the living-room, with a courtly air and a "good morning" advanced to meet her.

"Here, with the sunshine, comes the rosebud; hey-day, a pleasant morning to you, Sweetheart. Will it be a gallop on Gipsy with a trip to Coneyne, Frances? I must take a gallop to inspect the hogs and see if Huten is doing his duty."

"Yes, that plan pleaseth me, but I go later with Lady Moody to see the little Holmes girls."

"So it is a ride over the neck road—here goes; I will have the horses saddled."

"I will be ready in my habit, awaiting you at the porch door."

Soon both Mistress Frances on Gipsy, and Sir Henry on Black Duchess, were flying down the road. Lady Moody, with a smile on her face, gazed upon the rapidly disappearing riders.

"They make a fine looking pair, my Lady," said the maid Dawkins, standing at her mistress' side. "Mistress Frances is a picture, and Sir Henry is growing daily more like the Baronet. There's not such in the province, and I hope to live to see their children on your knee."

"Ah, Dawkins," murmured Lady Moody, "love will have its way, but 'love can hope when reason would despair.'"

"Love's like the measles, all the worse when it comes late in life, my Lady. Sir Henry is quite mad about Mistress Frances. One can see it in all his actions."

"We must let events take their course."

The morning passed quickly. Many duties occupied the time of the Mistress and the mid-day meal brought the return of the riders. Then in the early afternoon there was much to be done in the way of preserving pears and plums, just brought in. Five o'clock came. The hands of the old clock pointed to the half hour. Lady Moody had ordered Dawkins to pack a basket with two glasses of jelly, a manchet of bread with a pat of butter fresh from the churn. In one of the huge pockets she wore on either side of her voluminous skirt, she placed a bottle of good Jamaica gin, with some other things needed for the invalid's comfort. Quietly stealing from the house and down the garden path, both ladies turned sharply to the West as if to pass into the neck road; disappeared behind a clump of trees and tangled vines,

which hid the entrance to the cave. It took but a touch from Lady Moody's hand to remove the great swinging stone at the entrance. The opening was descried, into which both crept; the stone being quickly adjusted into place. Lady Moody knew the passageway well, and picking her way among the loose stones, was followed closely by her fair companion. They groped their way carefully following the many windings; Francis shivered, for it was cold and damp, and when she addressed a remark her companion, the strange echo startled her. The sweet voice of Lady Moody sounded muffled, as she from time to time called back reassuringly. It was a hard walk, and though, as we have seen, familiar to Frances, the steep incline made the way most hazardous, as the pebbles rolled under their feet. Visions of sprained ankles and bad falls made both women very cautious, and after a good hour's walk, they reached the low opening at the back of the cave. The stones had been removed. Evidently they had been expected. The passageway had been so dark, and the brighter light which found its way through the opening made Lady Moody and her companion pass their hands over their blinking eyes, before they could see clearly about them.

The figure of a man past middle age lay on a pile of dried leaves and sea-weed. The smoldering ashes of a fire gave a dim light, but little heat, and the air of the cave was damp. Crouching in the opposite corner sat the Indian girl, Minatonka. Frances recognized at once her friend and deliverer on the day of the storm, and a look of recognition passed between them. The face of the Indian maid was wreathed in smiles, as she said,

"White face come again to cave! Pale-face father sick, need pale-face friends. Need food. Indian girl no good, only help little."

"I have come, dear Edward; it was you who sent the message to our little Frances?"

"Minatonka gave message from sick man; sent it to Lily-Pale-Face."

The figure on the bed of leaves and sea-weed stirred, as he turned, weakly opening his eyes full upon the women, and motioned to the Indian girl to leave the cave.

"Deborah, you here, and little Frances too?"

"No longer little, Edward, she is a woman now."

"Do you remember your old friend, child? No, it would be impossible at that early age to remember."

"Lady Moody hath ofttimes spoken your name, Sir."

"Ah, Edward, how my heart hath turned to you in my wanderings. I have tried to bring up the little Frances as you would have wished. I had hoped that she might resemble my poor friend, but she favoureth her father's family, think you not?"

The sick man smiled. "They say that the daughters favor the fathers, and the sons the mothers."

"But Edward, it is too glad an hour! To think you are here, but ill."

"Yes, at one time ill almost unto death. The Indian maid hath nursed me like a daughter. She it was who saved my life, bringing me in a canoe to the cave, when I was attacked by the low Dutch traders. They would not only have taken my gold, but my life as well."

"When did the ship reach this haven, and why did I not know of your coming? Surely my cousin, Oliver Cromwell, hath sent a message to me by your hand? He was always interested in the child. I have tried to do my duty by Frances and love her dearly, being not only an adopted Mother, but desiring to be a real one." Glancing cautiously as she spoke to the blushing girl at her side, Lady Deborah continued, "Frances would ask you, when alone, relating to your wishes for her future happiness; she knoweth mine."

The handsome face of the man softened. He looked lovingly down at the crimson cheeks of the young girl who sat on the floor at his feet. "We will speak later about these things; but tell me, dear friend, about your sojourn in New Amsterdam."

"We have had some troublous times, but, as the Quaker Master, George Fox, saith, 'the good Lord reigneth.' The red-skins are truly a constant source of danger. The Dutch are my friends and Director Kieft hath granted to me, Henry, my son, Ensign George Baxter, Searjeant James Hubbard, and our associates, a patent for these lands. So you see, we are really Dutch subjects."

"Poor Anne Hutchinson and her family have been massacred by the Indians."

"The very memory of the horrible tidings maketh me ill. She indeed was most persecuted. The weekly lectures given in her dwelling I found a goodly help, as did the other seekers for the truth. Her Samuel fortunately remained behind in Boston, as his religious views were also under a cloud. He was examined by Dr. Eliot. May, a daughter, had married Major Thomas Savage, who has so distinguished himself. Do I weary you with all this gossip? They say that the Quakers, who are fleeing here, are Franciscan friars in disguise. You know La Tour came this year to Boston, with two friars, and two women. Men whisper, Gabriel Drunllete of the Company of Jesus, one of the most heroic men, is spying out the land. Dr. Eliot hath invited him to be his guest. We are nearly all Anabaptists* here, believing in soul liberty; the divorce of the church from civil power; and we try to follow in the footsteps of the Master, forgetting the home behind, and Old England, where the Star Chamber held sway, and looking forward to this new life under the Dutch in this new World, even though we suffer for Conscience sake."

"Do you not miss the old home with its environment?"

Lady Moody shuddered, "No, indeed, no one ever misses tyranny; my burdens, after the dear Baronet left me, were heavier than I could carry. With the poor Quakers, we were classed as damnable heretics." A deep sigh escaped from the sick man by her side.

"Ah, you are, dear friend, too weak to hear more. I have been cruel to make so long a recital. Frances, Frances!" But the young girl had fallen asleep. Reaching out for the basket by her side, Lady Moody poured out some of the stimulating liquid, and held it to the lips of the sick man. "There, drink, Edward, and forget my seeming cruelty and lack of judgment. The day is warm and sultry, even in this cave. Would it not be safe to remove you to our dwelling, where Henry would nurse you like

*The word Anabaptist far precedes the Reformation. Hübmaier, the greatest of the sect, married in 1528 a nun of the Roman Church. For breaking her vows she was thrown into the Danube with a stone around her neck.

a son? None other need know of your presence; only Frances and myself. What think you of the plan?"

"I know not what is best. The plan is good. If they do not mistake me again for Prince Charles. When in Virginia, from which place I have just returned, wagging tongues said many things and suspicion hath followed me even to the north. If this happens again I shall be arrested, but you must stand by me. His Excellency, the Governor of Virginia, told the people that I was there on business, not as an exile. This is why I am moving with so much caution, for I do not wish to be detained as the time approaches for me to sail."

"It is best; we must be cautious; for how long a time can you remain in this region?"

"God only knows."

"You have said little as to why you came to this country, when affairs in England are so absorbing. Cromwell needs you."

"Oliver St. John hath been a great help to me in legal matters. He too, as you know, was brought before the Star Chamber and suffered imprisonment. It was said that the document which he circulated was seditious."

"It was all an attack against the Bishop, I fancy."

"Yes, truly, and Oliver acted for Lord Saye and Hampton when they resented the payment of ship money. They were all interested in the management of Providence Plantation. How St. John hates the church!"

"It must be from the company he keeps. 'Evil communications,' you know, Edward."

"But his speech for Hamden gained him his great reputation and the courts depend on him when anything to do with the King is discussed."

"As I remember him, he was a man proud and reserved, conversing with but few. In truth, I never saw him smile."

"They say that he is the leader of the Independent party, and they call him the 'dark lantern.' For my part, I think him a bit uncertain, even though he be my cousin; but it lieth between you, Deborah, and myself."

"The news of the death of Charles First came like a shock to me, though I felt indeed his days were numbered."

"Before the King laid his head upon the block he turned to Bishop Juxon, and handed him his little St. George, saying, 'Remember.' I can hear the words now, as they fell from his lips, 'remember, remember.' When Bishop Juxon was asked what he meant, he said it was the wish of the dying King, that his murderers be forgiven. In my dreams, I see that word, writ in letters of blood. I was Charles' murderer, but it was for Conscience sake."

"Speak not so plainly. You are truly not a murderer, but desired to free the country from tyranny and abuse. Now will we have freedom of speech and religion."

"We Puritans say that the Book of Common Prayer is a deadly and pestiferous book. Indeed the punishment for reading it is the same as that of making mince pies, dancing, or kissing the baby on the Lord's day."

"And Peters, tell me about Hugh Peters?"

"Ah, poor man, he has indeed been chastened of the Lord. His wife has become of unsound mind."

"Truly did I hear rightly, that he stood masked by the scaffold, when the King was beheaded?"

"The thing you heard was right. Though he denies any complicity in the King's death. I doubt me if he will even return to this land. Cromwell hath given him many of his affairs to look after. Ah, Deborah, you have, I hear, become a strong Anabaptist and a follower of Roger Williams."

"We believe in a Commonwealth, whose laws shall be moddeled after the teachings of our Lord. God is our only King. All civil rules must be made subservient to him in protecting the people in all lawful pursuits. We have reverence for the Supreme One, and this doth away with all fear of death, or punishment of those in power."

"I have been to Virginia to look after my property there. England in truth was growing a very hell-gate. Before I left, the authority of Parliament was firmly established. Many of the Estates belonging to the Royalists being confiscated, because they were unable to pay the large fines; much money has been given to the King and gold is scarce. The title of some of these large estates, sold at auction, are not worth the parchment on

which they are written. I purchased at public auction an estate in Virginia, and have come over to insure its validity. It will some time serve as a home for my wife, Frances, and the children. Her namesake;'' both glanced tenderly at the sleeping girl, ''you have indeed been a Mother to her, Deborah, I can hardly believe so long a time has elapsed. She was a maid of tender years when you set sail.''

''I feared I was growing too old to assume such responsibilities,'' continued Lady Moody, ''and hated to leave my own daughter behind, but it was her choice. The flesh-pots of Egypt were too great an attraction. This child, for she will always be a child to me, hath become like my own, indeed.''

''Hush,'' in a whisper he continued, ''knoweth she aught of her strange history?''

''No, Edward, I have told her little, deeming it best that she should be kept in ignorance. Does the Mother yet live, think you?''

''No one knows, but rumor saith that she hath come to this land. She must have perished long ago.''

''Sad, truly sad. She was so beautiful, but beauty was her snare.''

Frances at this moment opened her eyes, ''Have I been asleep, Lady Moody? The close air and the noise of the waves on the shore acted like magic and I slipped away into the land of nod. Truly it was most stupid of me.''

''No, dear child, I am glad you slept. I was so rejoiced to see my old friend, and we had so much to talk over that the time flew on swift wings away. I have worn him out, and we must soon take our departure. I have brought some necessaries for you, Edward; they are in the basket, and I will call the Indian maid to give her some instructions. To-morrow, if best, we will carry you to our dwelling, where you can rest and regain strength for the return voyage.''

''I was sorry not to have accompanied Roger Williams back to England; we are congenial in many ways and he is to be a guest of Sir Henry Vane, our mutual friend. Did you know that he is a near relation of Oliver Cromwell, who sometimes goes by the name of Williams?''

"Yes, so I have heard, but he uses the other name on legal documents. It groweth late."

Just then, Minatonka appeared at the entrance to the cave, and Lady Moody gave her necessary directions for the invalid's comfort. The Indian maid seemed much distraught, and glanced at the opening as if in great fear.

"What trouble hath come to you, Minatonka?"

"Minatonka afraid. Indian rise; kill. White-skin Brave must go with the pale squaw to her wigwam. Many pale-face killed; village burnt. Minatonka knows secret. Great Brave Annahook tell Minatonka squaw Anne Hutchinson child live. She with tribe not far away. Annahook want much gold for child. Child love Indian; not wish return pale-face wigwam. Speak like Indian. Cry much first. No more cry now; she happy. I save pale-face girl."

Lady Moody listened breathlessly to the Indian maid's recital. "Edward, it must be the youngest child of Anne Hutchinson, my friend. You remember that all the family met a cruel death by the red-skins. Yet one hath escaped. We must get His Honor, John Winthrop, to ransom her. Poor child, and happy with the red-skins, she says." Her eyes filled with tears. "Only three left of that large family. Poor Anne, poor Anne, an exile and alone, with not even those she saved from death near her at the last. Frances, you remember this child; you saw her when you went with me to some of the meetings. But I forget; the hour groweth late. You and I must return to make preparations for our friend's comfort. To-night he must find shelter under our roof-tree. Minatonka," turning to the Indian maid, "you will keep all quiet, and help the white man through the secret way." She placed her finger on the girl's lips.

"Pale-face trust Minatonka; trust till she go to happy hunting-ground and great, white Spirit. When sun sink behind great island there," pointing to the Island of Coneyne, "help pale-face Brave through secret way."

"Are you strong enough, Edward, to come to-night?"

"Yes, I am stronger," raising himself on his elbow. "Your coming has been my best medicine."

CHAPTER VII

The Return of the Indians. The Hog Market.

"Such is the use and noble end of friendship
To bear a part in every storm of fate,
And by dividing, make the lighter weight."

—Byron Higgins.

That same evening found Edward Whalley, the disabled friend and countryman, a guest in Lady Deborah Moody's dwelling. Up to a late hour, the kind hostess, Sir Henry, Frances and himself were talking over the Old World news, so interesting to all. Sir Edward Whalley told them of the great sea armament, which on Christmas of the last year had sailed from Portsmouth. It was to attack Haspancola, the Spanish power in the West Indies, but the attack failed.

"The Island was not worth the keeping. Oliver Cromwell has never before made such a dead failure. He is not used to such. Desborow fitted it out when Oliver was otherwise employed, but he blames himself. General Penn and Land General Venable, were in command. Venable in sooth was taken ill of the West India malady, and came near dying, so he was not of much use. And Admiral Penn, father of Sir William, is rather quick of temper, and though he tried to do his duty, all went wrong. Both returned and both were sent to the tower."

"It must have been a bitter blow to Cousin Oliver."

"Yes, he had so longed to smite the anti-Christian Spain. If Jamaica be worth while, we will owe it to the Protector. We may fail at first, but the enemies of God must be punished by the sword."

"Surely Oliver Cromwell has been raised up by the Lord to do this work. May he see the desire of his heart. As you may have heard, Oliver St. John has become Solicitor General."

Sir Henry nodded in assent, "Sometimes called the dark lantern."

"If our king had only been content with the name of King, and assented to the various resolutions, even though opposed to his ideas, all might have been well,—ah, the wasted lives of the

great armament of sixty ships and nine thousand broken down Royalists!"

"Charles could not or dared not save Stratford, for he loved him. The sorrow clouded his life, while the dying nobleman's words rang in his ears: 'Living, I have done my utmost to secure the happiness of England; dying, it is my most ardent wish; but I beseech each one of those who now hear me to lay his hand upon his heart, and examine seriously, if the commencement of a salutory reform ought to be written in characters of blood. Ponder this upon your return home. God grant that not a drop of mine may be required at your hands. I fear, however, that you cannot advance by such a fatal path.'"

"What a fearful mistake Charles made. Poor Charles—his own worst enemy."

"The seven counties," Edward Whalley continued, "have become united in the cause of liberty and the long Parliament is slowly doing its work."

"When do you return, Edward, to the Mother Country?"

"In the space of a few days only. I tarried but to see again my dear friend, Lady Deborah Moody, and the maid."

As all sat talking, Lady Moody kept glancing from time to time at the portrait over her desk, and then at the face of the guest, Sir Edward Whalley. There was a resemblance, but it was a younger man.

"What a pity that our King should have gone his own way, followed by the Church, while Old England has gone in the opposite direction. It hath indeed ended in Civil war."

Lady Moody rose from her seat and stepping to the desk was about to open one of the small drawers when an exclamation from Frances made her start back in alarm. In the open doorway stood Minatonka, her hand upraised as if to insure silence.

"Pale-face fly. Indian near; no time."

Sir Henry seizing his gun from the chimney corner, and calling to both his Mother, Frances and Sir Edward Whalley to follow him, started toward the door. "Fools," he muttered, "to disobey me. I ordered the stockade gates to be well guarded. How found the Indian wench her way in? Speak, girl."

"Pale-face know way. I came under earth. All wigwams in

Greenwich burn. Pale-face Brave Underhill fight. Much white-face killed. Pale-face Doughty of Maspet prisoner; all killed. Fly, fly! no time."

Sir Henry took his Mother's arm, followed by the frightened Frances helping Sir Edward. The servants soon caught the alarm and after saving what they could, all fled to the fort at Annersfort, which they reached just in time, and found safety under the protecting arms of the Dutch. It was not wise for some days for the family to return to Gravesend, but when they did so, they found the dwelling still standing, but many out-buildings belonging to James Baxter and others were in ashes.

It was not long after this that John Underhill who had been disfranchised and exiled by the Massachusetts Bay Colony for protestations in behalf of Anne Hutchinson and her brother, Mr. Wheelwright, was pardoned. But being disgusted with Massachusetts Bay Colony, came to New Amsterdam and was given by Director Kieft a patent of a small island in the East River. Persecution was rife, and many fled to the Dutch settlements. Father Jognes, the Jesuit, was welcomed by Kieft, and Father Brossani was ransomed from the Iroquois. New Amsterdam was growing. On the East River one could see here and there an Indian lazily paddling his canoe filled with tobacco and maize. There were other small crafts and fishing boats; vessels of different sorts, with cargoes of salt and cattle. The Hudson River was called by the settlers, the River of the Mountains, the "Mauritius," also "Nassau," great North River. Many of the houses had thatched roofs, and tall chimneys of Holland brick. There were a number of taverns. Wolves and bears could be seen in the lanes, and the school-master, Adam Roelantrin, and Domine Bogardus were paid two skins yearly for the tuition of each scholar.

Two great cattle fairs were held each year in New Amsterdam. One in October, and one for hogs in November. At the November cattle fair, one windy morning, Sir Henry Moody could be seen arranging with his men about the sale of hogs of which he had great herds at Coneyne. They were a goodly lot of beasts, so thought Sir Henry, as he stalked around with his doublet of gray over a sleeved waistcoat, the sleeves slashed and embroidered,

a deep linen collar, trunk hose and long stockings, with rosettes on his shoes and carrying a broad-brimmed beaver hat. A sword hung from an embroidered shoulder belt. At his side walked Frances in her pointed stomacher, crimson petticoat, and neat fitting cap, confining the pretty, curling hair. As the day was windy, a long camolet or cloak adorned the trim figure.

"Prithee, Henry, let us hasten to meet Lady Moody at the tavern. Master Francis Doughty is also to be there, and my Lady and I will call on the Governor. 'The Blue Cock,' setteth sail to-morrow for Holland, and the Governor is anxious to see Lady Moody about some parchment he wisheth her to sign."

"That is the same vessel on which Sir Edward Whalley will take passage."

"Go, you, Frances; I will follow when I see this hog business settled. We ought to get fair prices for the beasts, even though there be little ready money. His Honor is forever borrowing. There goes his largest creditor, Colin Danch. It would be a mercy if he could be recalled. Look, there is Jacob Staffelson; he hath of late married the widow of Von Vorst. I fear me the stupid louts have not driven in enough posts for the hitching of cattle."[1]

"Oh, Henry, I do love to watch the country folk as they gather to inspect the beasts. There goes His Reverence, Francis Doughty. And there is Anthony Jansen Van Salee, ever a thorn in the flesh, a queer man who loveth himself more than his neighbors. Of a truth, we will see him later, when we appear before Governor Kieft. You will soon join us, Henry?"

"Yes, sweetheart. Haste you, or my Mother will think you have been kidnapped."

Frances laughed and waving her hand in adieu, hurried away to join Lady Moody. After a hearty dinner at Dan Litchie's tavern,[2] which was cooked and served by his good frau, Anatze,—he had houses both sides of the East River, that no passengers might escape—being hungry. And truly no one had such a desire, for the delicious oysters, water terrapin, wild turkey,

1. The market was on the west side of Broadway, in front of the graveyard, near Morris street.

2. Stood in Hanover square.

peas and beans, ending with a nicely browned apple tart and cheese made a repast fit for a king. The meeting with Director Kieft, James Hubbard, George Baxter and Anthony Jansen Van Salee, was a stormy one.

Tired out by the long day, Lady Moody and her party were glad to be ferried over to Long Island before nightfall. As the party approached their dwelling, Dawkins, the maid, advanced to meet them, saying that His Eminence, Governor Winthrop, had arrived during their absence, and awaited them. Lady Moody had been expecting the Governor for some time. This was his second visit. She wished to discuss many important matters. The ransoming of Anne Hutchinson's child, still held a captive by the Indian chief Annahook, his hands dyed with the blood of the pale-face, had, as customary, taken his victim's name. The governor was ever a welcome guest.

Early History of Medicine in New York

PART II

THE British occupation of the city of New York wrought an almost instantaneous change in conditions. Feeling had been gradually intensifying, and there was no ground for the neutralist. One must be either royalist or rebel, and the rebel must needs go elsewhere to escape constant persecution The condition of the physician was peculiarly awkward. If inclined to the patriot cause, he suffered an ostracism which practically closed his vocation to him. On the other hand, except in a very few favored cases, the civilian physician, no matter how pronounced in his loyalty to the crown, was viewed with contempt by the British army and navy surgeons, and, in some instances, he was driven over to the side which he, at heart, despised. Yet there were exceptions, and a few physicians remained in practice in the city, and were profited by their contact with those professional brethren who were in military service. Of such, however, there is little narrated.

Some of these practitioners of the Revolutionary period, or immediately afterward, were well worth regarding on account of services of peculiar usefulness.

Among the early physicians was Dr. John Van Beuren, a graduate of the University of Leyden, who was appointed to the surgeonship of a Dutch fleet which sailed to Africa and thence to America. Locating in New York, he was appointed physician of the almshouse, in which position he was succeeded by his son, Dr. Beekman Van Beuren. The junior Van Beuren served until the British occupation at the beginning of the war, and he was reappointed when peace was restored, but resigned in the following year. He has been credited with the introduction of inoculation in the public institutions.

A striking figure of his day was Dr. John Charlton, an Englishman, who had seen service in the British navy. He practiced medicine in the city in 1762, and during the Revolutionary war resided on Long Island. He returned to New York in 1781 and acquired a remunerative practice in fashionable circles. In association with Dr. Nicholas Romayne, he was instrumental in the establishment of the incorporated medical societies in the State, and he was president of the local society in 1795, his official colleagues being Thomas Jones, Samuel Bard and Richard Bayley. Dr. Charlton married Mary De Peyster, a daughter of Abraham and Margaret (Cortlandt) De Peyster. He is described as a man of less than ordinary stature, florid complexion and self-important manner. He is particularly noticeable as having introduced to the profession one who rose to distinction in the person of Dr. Richard Bayley.

Contemporary with those last named was Dr. Valentine Seaman (1770-1817), a man of great industry, whose labors were vastly advantageous to his profession. He was a native of Long Island, a son of Willet Seaman, a New York merchant, born in Queens county, of Quaker parentage, and a pupil of Dr. Benjamin Rush, of Philadelphia. He remained steadfast in the faith in which he had been reared, and he was the dependence of the Friends then residing in the city. Peace lover that he was, he refused to engage in any of the professional differences of the day. He was the first surgeon (in 1801) to institute clinical lectures in the New York Hospital. He was the first to make a chemical analysis of the Saratoga and Ballston spring waters, and the author of an elaborate treatise upon their qualities and uses. He it was who introduced in New York the discovery of Jenner, and pathetic interest attaches to the fact that he lost his first child by a smallpox inoculation, and had a pardonable pride in the fact that the first white child vaccinated in New York was his own son. Despite bitter opposition by the community, practitioners and laity alike, Dr. Seaman was an early advocate of smallpox prevention, and even visited Jenner in Europe, the result being that there was a further strengthening of his belief and the establishment of a life-long friendship between both of these widely known celebrities.

Dr. Seaman was leader in another and scarcely less notable field. He was the first to form a school of midwifery at the almshouse, became an instructor of women volunteers, and prepared a book for reference in the conduct of their emergent cases. He published a report of his observations during the yellow fever epidemic of 1791-1800. In 1810-11 he was associated with others in the formation of a medical society in connection with Queen's College, at New Brunswick, New Jersey. His engraved portrait, after a painting by Rembrandt Peale, in 1816, is found in many a medical society room, and graces as well as appearing as an inherited memento in some collections in offices throughout the country. A philanthropist and humanitarian, Dr. Seaman was also an active and zealous member of the Manumission Society, whose purpose was the liberation of slaves and provision for their future.

The first medical school in the city of New York was that formed in connection with King's College. The college was chartered by the Governor and Council on October 31, 1754. In 1763 James Jay, "Doctor of Physick," and agent for the Governors of the College of the Province of New York, visited England, where he was instrumental in procuring subscriptions for the infant institution. In the same year he proposed to the Governors the establishment of a medical school in connection therewith. To his overtures it was replied that his "medical scheme would be productive of many advantages," and that it would be put in execution as soon as their funds would permit. Nothing, however, came of his proposition until four years later, when a school of medicine was actually established through the efforts of the following doctors: Samuel Clossy, Peter Middleton, John Jones, James Smith, John V. B. Tennent and Samuel Bard. These individuals represent very nearly, if not quite, the best talent of the new world in their varied lines, and are comparable in their attainments to their compeers in the Anglo-Saxon world. This, at least, seems to represent their traditional reputations on the cis-Atlantic seaboard. The hope is that it is not based on an extravagant prejudice. Dr. Bard was, however, the acknowledged leader and inspirer.

Samuel Clossy was an Irishman, and he possessed some of

the most marked traits of his race. Of strong character, intense enthusiasm, quick-witted and somewhat addicted to conviviality, he was a type which the novelist Lever would take delight in portraying. He was a man of excellent attainments, a graduate of Trinity College, Dublin, and was known as a capable and progressive physician and surgeon. In 1763 he published in London his treatise, "Observations on Some of the Diseases of the Human Body, Chiefly Taken from Dissection of Morbid Bodies." He came to America, and in the same year was called to the chair of Natural Philosophy in King's College. On November 25, 1763, he began the delivery of lectures on anatomy before the collegians, with the approval of the authorities of the institution, and three years later he aided in the establishment of the Medical School, and was the first named of its professors in the earliest printed records. As the Revolutionary spirit developed he grew into sympathy with that element of the community which antagonized the British authority, and became one of its principal expounders, it may be, out of pure contrariety. His sharp tongue provoked the ire of those who were the targets of his stinging sarcasm and ridicule, and his oddities were unsparingly mimicked and exaggerated by performers at the old John Street Theatre, to the great pleasure of His Majesty's soldiers and loyal subjects. However, he did not remain to cast his fortunes with the people whose cause he appeared to favor, for when hostilities became imminent he returned to his native heath and there passed his remaining days.

Dr. Peter Middleton was a native of Scotland. With Dr. Bard, he dissected the body of a criminal before a class of medical students, and in 1769 he wrote and published a treatise on "The Ancient and Present State of Medicine." An ardent Tory, when the Revolutionary war broke out he removed his family to Long Island and sought refuge for himself in the British island of Bermuda, leaving his house and personal effects in the custody of two of his pupils—Charles Mitchell and John Varick, Jr. Dr. Middleton subsequently returned to New York, where he died in 1781.

Dr. John Jones (1729-1791), one of the most accomplished surgeons of his day, was born at Jamaica, Long Island, in 1729.

He began his medical reading under Dr. Thomas Cadwallader, of Philadelphia, and further pursued his studies under Dr. William Hunter, and Dr. Percival Pott, of London, England, and Petit, Le Cat and Le Drau, in Paris, France. In 1755 he served as a surgeon during the operations against the French. He was a successful lithotomist, and it was claimed for him ("American Medical Register," volume III) that he was the first to perform a lithontriptic operation in 1769. But this is evidently claiming too much, inasmuch as an operation was performed by Dr. Sylvester Gardner, of Boston, before the Medical Society, in 1741. In 1775 Dr. Jones published his treatise, "Plain, Precise, Practical Remarks on the Treatment of Wounds and Fractures," and this is noted as the first native surgical work produced in the American colonies, although a medical critic styles it a compilation with but one original case, that of a hernia cerebri after trephining. He espoused the patriot cause, and under the authority of the Provincial Congress established hospitals in the American camps.

Under the stimulus afforded by Dr. Clossy and his colleagues, who proffered their services as lecturers, it was the distinction of the Governors of King's College to make it the first in America to establish a medical school in connection with an institution of general learning. True, Dr. Shippen, in Philadelphia, had (in 1762) antedated by two years Dr. Clossy in the delivery of his lectures, but the College of Philadelphia did not afford recognition to the medical school established in connection with it until the year after the formal opening of the King's College Medical School.

At this point the writer would deplore the utter absence of information concerning the personal element in the incipiency of the school enterprise. It would be of great interest to know of the discussions and consultations of its projectors. It is reasonable to infer that they experienced rebuffs and encountered obstacles while advocating what was doubtless regarded as an idle and profitless undertaking. They had no precedent for their action. They could hold out no inducements to the capitalist who desired to make a profitable investment, nor to the humanitarian who would exchange a portion of his wealth for an assured niche

in the temple of fame. We are to conclude, in view of the existing conditions, that these old-time school builders had no other incentive than love for their science and a genuine regard for ailing humanity in the immediate present and in futurity. But, in absence of knowledge under this head, the official records are clear as to the organization of the institution which was the work of their hands.

The following extract has been transcribed from the minutes of a meeting of the Governors of the College of the Province of New York, in the City of New York, in America, held on Friday the 14th day of August in the year of our Lord 1767:

"Two letters being presented to this board, the one dated the 4th instant, from Dr. Samuel Clossey, Dr. Peter Middleton, Dr. John Jones, Dr. James Smith and Dr. Samuel Bard; the other dated the 5th instant, from Dr. John V. B. Tennent, were read, their purport being a proposal as well for the honor and interest of this seminary as the common good of mankind, to institute a medical school within this college, for instructing pupils in the most useful and necessary branches of medicine, and also an offer generously to give a course of lectures in the winter season in each of the following branches of that science, viz.: Anatomy, by Dr. Samuel Clossey; physiology and pathology, by Dr. Peter Middleton; the theory and practice of physic, by Dr. Samuel Bard; the theory of chirurgery with a course of operations upon the human body, by Dr. John Jones; chemistry, by Dr. Samuel Smith, with the materia medica and midwifery, by Dr. John V. Tennent.

"The board, having taken the said letters into consideration, are of opinion that the establishment thereby proposed will not only (by promoting the true knowledge of medicine) tend to the honor and reputation of this college in particular, but be also a public benefit to society, do, therefore, unanimously resolve that the said medical school be, and the same is hereby erected in the said college, and the board, having the highest confidence in the merit, learning and abilities of the above mentioned gentlemen, and being impressed with a due sense of their generous and disinterested proposals above mentioned, do unanimously elect and chuse the said Dr. Samuel Clossey Professor of Anatomy, the

said Dr. Peter Milleton Professor of Physiology and Pathology, the said Dr. John Jones, Professor of Surgery, the said Dr. James Smith Professor of Chemistry and the Materia Medica, the said Dr. Samuel Bard Professor of the Theory and Practice of Physic, and the said Dr. John V. B. Tennent Professor of Midwifery in this College.

"And it is further ordered that Mr. Attorney General, the Rev. Mr. Auchmuty and the Rev. Mr. Cooper be a committee to acquaint them with the determination of this Board, and also to regulate (with the advice of the said professors) the said Medical School."

Announcement of the opening of this school was made in "Weyman's New York Gazette" in its issue of Monday, September 21, 1767, as follows:

"King's College, New York, September 17, 1767.

"As the 'Establishment' of a 'School' for the regular instruction of Gentlemen in the different branches of Medicine must not only promote the Honour and Utility of that most important and necessary Science, but likewise conduce to the general Advancement of LEARNING:—The Governors of this COLLEGE, in Consequence of the Powers vested in them by their 'Charter,' and being desirous of rendering the Institution over which they preside as publickly useful and extensive as possible, have appointed the following 'Professors':

"Samuel Clossey, M. D., Professor of Anatomy; Peter Middleton, M. D., Professor of the Theory of Physic; John Jones, M. D., Professor of Surgery; James Smith, M. D., Professor of Chymistry and Mat. Med.; John V. B. Tennent, M. D., Professor of Midwifery; Samuel Bard, M. D., Professor of the Practice of Physic.

"The above gentlemen will begin their 'Lectures' the first Monday in 'November' next, and continue them regularly till the Completion of the several 'Courses,' which it is supposed will be some time in 'May,; and Degrees in 'Physic' will be conferred upon the following Terms:

"1. Each Student shall be matriculated as in the 'Universities of England.'

"2. Such students as have not taken a Degree in 'Arts,' shall

satisfy the Examiners, before their Admission to a 'Degree' in 'Physic,' that they have a compleat knowledge of, at least, the 'Latin' Language and of the necessary Branches of 'Natural' Philosophy.

"3. No Student shall be admitted to his Examination for a 'Bachelor's Degree,' in less than 'three years' after his matriculation, and having attended at least one compleat Course of Lectures under each Professor; unless he can produce proper Certificates of his having served an Apprenticeship of Three Years, to some reputable Practitioner, in which Case he may be admitted to his Examination in 'Two Years' from his Matriculation.

"4. In one Year after having obtained a 'Bachelor's Degree,' a student may be admitted to his Examination for the 'Degree' of Doctor, provided he shall have previously attended two Courses of Lectures under each Professor, be of Twenty-two Years of Age, and have Published, and publickly defended, a Treatise upon some 'Medical Subject.'

"5. The Mode of Examination, both publick and private, shall be conformable to the Practice of the most 'Celebrated Universities' of Europe.

"6. Students from any reputable University may be admitted 'ad eundem', producing proper Certificates; and 'graduates' will be entitled to the same Privilege, on producing the like Certificates, and satisfying the 'Professors' of their Medical Abilities."

In the "New York Mercury" of November 2, following the publication of the foregoing, appeared the following announcement of Dr. Clossy's lectures, and it may be here remarked that the prelections referred to in the concluding paragraph contain recognition of the prior lectures delivered by the same teacher:

"**King's** College, October 26, 1767.

"On Monday, 'November' the second, at Four o'Clock in the Evening; The FIRST Part of Dr. CLOSSY'S Anatomical Lectures will begin with the Usefulness of Anatomy; and will proceed to the Description of the Dry Bones, and likewise the Fresh Bones, with their Cartilages, Ligaments and Membranes: Internal Structure, Uses, Motions and Affections; and will be continued on every Friday and Monday evening.

"After the FIRST Part, the System of Muscles will be shown in the Adult Subject.

"Part the THIRD, will exhibit the Arteries, Veins and Trunks of the Nerves, in a Subject prepared with Injections: And the whole will be concluded with

"The FOURTH Part, containing the Encephalon, with the Viscera of the two inferior Cavities, together with their Uses, Motions and Diseases, in an Adult Subject.

"Attendance for each Course to the Students in Physick, 'Five Pounds;' and free after two Courses.

"For seeing Dissections and Preparations, 'Ten Pounds,' and free after Two Courses.

"To Gentlemen who will chuse to attend for the Improvement of their Minds, 'Three Pounds Four Shillings.'

"N. B. As these Prelections are revived under the Countenance of the President and Governors of the College, all possible care will be taken to render it useful, not only to those whose indispensable Business and Duty it is to be acquainted with the Human Structure and Economy: But to Gentlemen of other Professions, who may be inclined to acquire some knowledge of these Subjects, as a Part of Philosophy."

The opening of the school of which the foregoing was the announcement, was reported in the journal last quoted, and the adjectivial ornaments with which the report was bedecked would indicate that the function was regarded as of great importance and as having passed off in a manner entirely pleasing to the actors therein:

"At the 'Opening of the Medical School' in King's College in this City:

"On the 'Monday Forenoon' last 'Week,' the 'Governors, President, Tutors and Professors' of the 'College,' assembled at the 'Vestry Room' in this 'City,' from whence, being honoured with the 'company' of his 'Excellency the Governor,' the Judges of the Supreme Court in their Robes, and the Gentlemen of the Law in their Gowns, they walked in Procession to the College Hall, where they were entertained with a very elegant and learned Discourse, by Doctor Middleton, Professor of the Theory of Physic, on the 'Antiquity, Progress and Usefulness' of that

'Science.' The Satisfaction of the learned and splendid Audience on this Occasion was universal, and more especially so, when they considered the Performance as the Beginning of an Institution, so replete with Advantages to Mankind in General, and to the Inhabitants of this Province in particular.

"In the Evening of the same Day, was delivered by Dr. Clossy, 'Professor of Anatomy,' an introductory Lecture to that Important Science, which for genuine Learning and Precision, was justly applauded.

"The Day following, Dr. Smith, Professor of 'Chymistry,' gave an introductory Lecture on that Branch, which for Elegance and Sublimity, met with universal Approbation.

"On Wednesday, Dr. Bard, Junior, 'Professor of the Practice of Physic,' delivered his introductory Discourse, which for Masterly Composition and genteel Delivery, was highly pleasing to the respectable Audience. And

"On this Day, at five o'clock in the Afternoon, the Introductory Lecture on Surgery will be given by Dr. Jones, 'Professor' of that Science.

"The general Approbation which this Institution hath hitherto met with, on Account of its great Utility to Mankind, we hope will sufficiently recommend it to the Attention of such as intend the Practice of Physic, especially in this City and Colony. By a constant Application to Study under the Direction of the above Gentlemen Professors (if regularly prepared to attend them) young gentlemen may in a few Years be entitled to and obtain the Honours of the Medical Profession, and thereby be qualified to enter legally upon the Practice of Physic; with singular Advantage to the respective Communities to which they belong."

At a meeting of the Governors of King's College, held on November 25th, 1767, it was

"Ordered, That Mr. Attorney General, the Rev. Mr. Auchmuty and the Rev. Mr. Cooper be a committee to communicate to the several Medical Professors, the high opinion this corporation entertains of the learning and abilities, whereby they have respectively distinguished themselves, particularly in their introductory lectures. To thank them for their zeal they have expressed for the honor of this Seminary, and the pains they have

taken to promote its interest, and to signify their hopes, that the said professors, by a continuance of their services will render the science of Physic, much more respectable than it hath hitherto been in this country to their own honor, the reputation of the College, and the great emolument of the Public."

The original matriculation book of King's College contains the following entry: "This year, viz., 1767, ye following gentlemen (August ye 14th) were elected and chosen Professors in Medicine," and then follows the names as set forth in the minutes of the Governors of August 14, 1767. In the same book the list of admissions "Anno 1767" includes the names of Robert Tucker, S. M.; Samuel Smith, S. M., and Samuel Kissam, S. M., the initials being intended to designate the individuals named as students of medicine, as distinguished from the students in arts, whose names appear in the same list.

The matriculation book, under the heading of "Graduations, Anno 1769," contains the following entry: "The Commencement was in Trinity Church, May 16, and the following gentlemen were graduated:" Then follows the names of those receiving degrees, including "Robert Tucker, Med. Bac.; Samuel Kissam, Med. Bac." This event occurred May 15, 1770, and was duly reported in the "New York Gazette," which noted that "immediately before the Time of conferring the Degrees the "President" left his seat and was succeeded by Samuel Bard, M. D., who delivered a most animated speech, containing Advice to the Gentlemen who were to be graduated in Medicine."

In the records of King's College, under the entry of "Graduations, Anno 1770, May 15," appears the name of "Robert Tucker, M. D.," and under a like entry for 1771 (May 21) appears the name of "Samuel Kissam, M. D."

For many years the priority of medical degrees has been a vexed question between the representatives of the University of Pennsylvania and those of Columbia University, and the discussion has been revived in very recent days. It is claimed for the College of Medicine in Philadelphia, which was the source of the present medical school of the University of Pennsylvania, that it antedated King's College in conferring the medical degree; that in June, 1771, the degree of Bachelor of Physic was

conferred upon Benjamin Allison, Jonathan Easton, John Kuhn, Frederick Kuhn, Bodo Otto, Robert Pottinger and William M. Smith, and that on the same day four graduates (Jonathan Potts, James Tilton, Nicholas Way and Jonathan Elmer), who had received the primary degree in 1768, received the degree of Doctor of Medicine. Each of the four graduates named presented a thesis, and that of Potts is preserved in a pamphlet now in the library of the New York Academy of Medicine, and bearing the imprint, "Philadelphiae: Typis Johannis Dunlap, MDCCLXXI." It has also been asserted by advocates of the University of Pennsylvania claim that there was no degree of Doctor of Medicine given "in course" by King's College prior to the Revolutionary period. It is possible that these claimants have based their assertions upon the inferences drawn from the general catalogue of King's College, which shows that Tucker and Kissam were "Graduates in Medicine" in 1769, without indicating the degree, and without showing that they subsequently received the full degree of Doctor of Medicine. That the catalogue is defective in these particulars is amply shown by the transcriptions from the records of King's College. The matriculation book, which is a book of original entry for graduations as well as for admissions, shows beyond all doubt that Tucker and Kissam took their doctorate degrees "in course," and not as honorary degrees, and it is not to be questioned that they had fully complied with the published requirements of the course of study. The records show affirmatively that both Tucker and Kissam received the degrees of "B. M." in course at the end of two years, and that the degrees of "M. D." were also conferred upon them in course, upon the former at the end of one year (May 15, 1770) and upon the latter at the end of two years (May 21, 1771). The records also indicate that these degrees were given in course, for in other cases honorary degrees are indicated by the words "ad eundem" or "Hon. causa," and while the case is also proven negatively by the absence of the names of Tucker and Kissam from all the lists of recipients of honorary degrees.

With this view of the case it is evident that, assuming the accuracy of the dates claimed by the University of Pennsylvania,

medical degrees were conferred by the Philadelphia Medical College nearly a year (eleven months) before medical degrees were conferred by King's College. In each case, however, the degree was that of Bachelor of Medicine, and King's College claims priority as to the doctorate, which it conferred upon Tucker a little more than a year (thirteen months) before the same degree was conferred by the college in Philadelphia. These facts would seem to have been apparent to Dr. James Thacher, who, in referring to Tucker and Kissam, in his "American Biographies and History of Medical Science in the United States," says these were "the first instances of medical degrees being conferred in America, being a short time before those which were given in Philadelphia," his meaning evidently being in recognition of the full degree of Doctor of Medicine as regularly conferred by a medical school.

The facts attending the first commencement of the Medical School of King's College were recited at length by Dr. David Hosack, in his inaugural address delivered at the opening of the Rutgers Medical College, in the city of New York, on Monday, June 6th, 1826, and printed in pamphlet form in the same year by J. Seymour, on John street, New York. Dr. Hosack was the literary authority of the college in his day, and was regarded as a man of exact statements. The events of which he wrote were fresh in his mind, and it is entirely probable that he possessed record evidence saved from the great fire of 1776. From the address of Dr. Hosack we take the following:

"The first attempt for the purpose of imparting medical instruction in this country by the dissection of the human body was made in the city of New York as early as the year 1750 by two eminent medical men, Dr. John Bard and Dr. Peter Middleton. In 1756 the first course of lectures, professedly so, on anatomy and surgery was delivered at Rhode Island by Dr. William Hunter, a Scotch physician, who had been educated at the University of Edinburgh, and the father of the distinguished Senator in Congress from that State.

"In 1768 a medical school was organized under the direction and government of the college of the province of New York, then called King's College, and a board of professors appointed to

teach the several branches of medical science. . . . Lectures were regularly given, and the degrees of Bachelor and Doctor of Medicine were conferred by the college. The Rev. Dr. Miller, in his valuable 'Retrospect of the Eighteenth Century,' remarks that no degrees in medicine were conferred by this college previous to the Revolutionary war, but in this instance an error is committed by that eminent and usually accurate writer, for in 1769 the degree of Bachelor in Medicine was conferred upon Samuel Kissam and Robert Tucker. In 1770 the degree of Doctor of Medicine was conferred upon the last mentioned physician, and in May of the succeeding year the same degree was conferred upon the former.

"Dr. Sewall, in his excellent introductory lecture, delivered at the opening of the Medical School of Columbia College, District of Columbia, is also in error in his statement relative to the first medical degree conferred in the colonies, now the United States. In the discourse referred to he dates the first medical degrees as conferred at the commencement held in Philadelphia in June, 1771, whereas the doctorate had been previously conferred in the month of May of the preceding year in the city of New York.

From the foregoing it would appear that in order to antedate King's College in seeking for authority in any practitioner to bear the title of Doctor of Medicine, the "College of Medicine in Philadelphia" must needs be eliminated from the contest, and recourse must be had to a yet earlier day. Thus, in 1663 the General Court of Rhode Island licensed Captain John Cranston to "administer physick and practice chirurgerie, and is by this court styled doctor of physick and chirurgery by the authority of this the General Assembly of this Colony." Again, in 1720, Yale College conferred upon Daniel Tucker the degree of Doctor of Medicine, but this was simply an honorary degree. Tucker had been a liberal donor to the college, and the title which he received from it was facetiously interpreted "Multum donavit."

An interesting relic of Kissam, the second full medical graduate of King's College, is contained in a copy of his graduating thesis, preserved in the library of the New York Academy of Medicine.

While not strictly belonging to the theme, perhaps a sidelight

might be thrown upon the screen for the sake of illustrating and justifying the reputations of these self-same fathers of the school. At the first commencement, hereinbefore referred to, Dr. Bard, at the conclusion of his address to the graduating students, "took occasion to urge, with great Pathos and Strength of Argument, the necessity of establishing a regular Hospital for the Reception of the poor *sick*; and set the Advantages resulting from such an Institution in the most striking Point of Light." After the commencement exercises were ended an entertainment was given in the College Hall, and an incident of the event was a recurrence to the subject which had been previously broached by Dr. Bard—the erection of a public hospital. The Governor, Sir Henry Moore, expressed his particular desire that the plan should be entered upon, and he and others present subscribed an amount of nearly one thousand pounds. The corporation of the city of New York and the Provincial Legislature made necessary grants and a royal charter was granted by George III June 13, 1771. The ground set off for hospital purposes was a five-acre tract, a portion of the old Rutgers farm, and is better identified at the present time as the site on Broadway between Duane and Worth streets. This ground was occupied until 1870, when the hospital was closed to await the completion of a larger establishment on Sixteenth street, whence it was removed in 1895 to the triangular plot lying within Jay, Hudson and Duane streets.

The corner stone of the building was laid by Governor Dunmore, July 27, 1771. When the edifice was nearing completion it was burned down, February 28, 1775. This disaster was variously ascribed to accident and to the vandalism of Hessian soldiers. New buildings were erected in 1783. During the early years there seems to have been no systematic conduct of the institution, but in 1798 the governors effected a reorganization, and announced that the classes of patients for whom treatment was provided were, in order, those requiring medical attention, those requiring the services of a surgeon, the insane and women in confinement. At the same time the sum of £200 was provided for the beginning of a library, which was the nucleus of the present excellent book collection.

In 1771 the graduates of the Medical School of King's College were Benjamin Onderdonk and Michael Sebring. In 1772 the graduates were John Augustus Graham, Uzal Johnson, James Muirson, Richard Udall and William Winterton. In 1773 there was but one graduate, Jabez Doty. In the following year, 1774, there were two—Edward Stevens and Samuel Nicoll. In 1775 the college graduated seven students, but no medical degrees were conferred, nor was a public commencement held, owing to the absence of President Cooper.

The following year (1776) signalized the opening of the revolutionary struggle. In April the Committee of Safety took possession of the college property for military purposes, the library and apparatus were removed to the city hall and the students dispersed.

In 1784 the college was reopened under the name of Columbia College, and the medical school was revived, with the following faculty: Dr. Charles McKnight, Anatomy and Surgery; Dr. Nicholas Romayne, Practice and Physic; Dr. Benjamin Kissam, Institutes of Medicine; Dr. Samuel Bard, Chemistry, and Dr. Ebenezer Crosby, Midwifery. The re-establishment of the Medical School, however, was little more than nominal, as may be inferred from the fact that the medical professors received no salary. In 1787 the faculty had been reduced, by resignation, to three members—Dr. McKnight, Dr. Crosby and Dr. Kissam—and the school, for all practical purposes, ceased to exist.

In 1791 the Medical School was revived, after a fashion, through the instrumentality of a committee appointed by the trustees of Columbia College. On May 2d, within a month after its formation, the committee reported that it would be proper to have lectures in Chemistry, Anatomy and the Practice of Physic read in Columbia College, and recommended Dr. Nicholas Romayne, then nearing the heyday of his reputation as an office preceptor and attractive elocutionist. He whose name was destined to be so inseparably connected with the institution was accordingly appointed, on May 5th.

This lectureship, however, did not fulfill the requirements of a medical school, and in January, 1792, the Medical Society of the State of New York memorialized the trustees of Columbia

College with reference to the establishment of a complete medical department. By act of the Legislature, March 24, 1791, the regents of the college were empowered to create a "college of physicians and surgeons." The regents, however, concluded not to exercise this authority, provided the trustees would appoint such a medical faculty as would be satisfactory, and asked that nominations to the various professorships should be made. The faculty proposed (presumably on the motion of the Medical Society) was as follows: Dr. Samuel Bard, Dean; Dr. Richard Bayley, Anatomy; Dr. Samuel Nicoll, Chemistry; Dr. John R. B. Rogers, Midwifery; Dr. William P. Smith, Materia Medica; Dr. Wright Post, Surgery; Dr. William Hammersley, Institutes of Medicine; Dr. Richard S. Kissam, Botany; Dr. Nicholas Romayne, Practice of Physic.

The faculty as thus organized was approved by the Governors of the College, and the legislative act authorizing the establishment of a medical college was suffered to lapse.

The members of the faculty, with the exception of Dr. Romayne, who does not appear to have been in sympathy with the enterprise, and who resigned, presented to the Governors an address in which they signified their acceptance of these "honorable appointments," and pledged their "most faithful and strenuous exertions to render the important branch of education committed to their care as complete and extensive as possible," each one conceiving it "his indispensable duty assiduously to cultivate that part to which he has been appointed, hoping by their united endeavors so to conduct the whole as that this institution shall prove the happy means of rescuing a liberal science from the hands of ignorance and imposture, of furnishing useful and learned men in one of the most important of all professions, that which has the care of the health and lives of the people, and of increasing the fame and extending the usefulness of the college."

Dr. Richard Bayley (1745-1801), the Professor of Anatomy, began his medical studies under the preceptorship of Dr. Charlton, whose partner he became in 1772, and whose sister he married. In 1775 Dr. Bayley visited England, and was a dissecting room student under the celebrated Hunter. In 1776 he took ser-

vice as surgeon in the British army under Lord Howe, but he resigned in the following year and resumed practice in New York City. In 1781 he published an able letter to Dr. Hunter on "Croup." In 1787 he delivered lectures on surgery. Owing to the careless exposures of portions of bodies from the dissecting room, his office was made the object of attack by a mob (April 13, 1788), which destroyed his valuable anatomical cabinet. For three or four days infuriated people infested the streets, and few physicians' offices escaped injury. In 1792, Dr. Bayley was appointed to the chair of anatomy in Columbia College, and in the following year he was called to that of surgery. He was an accomplished operator. In 1795, he became health officer of the port of New York. He made careful study of the yellow fever epidemic of that time, and incorporated his observations and conclusions in his unique "Essay on Yellow Fever," in which he contended that it was of local origin and non-contagious. He was the author of the Quarantine Act of 1799. He was deeply conscientious in the discharge of duty, and came to his death through his devotion. Boarding an Irish immigrant ship, fever infected, he became ill, and died seven days afterward.

The graduates of the Medical School of Columbia College may here be named:

1793—Samuel Borrowe John Bowne Hicks, Willett Taylor, Jr., Joseph Youle.
1794—David G. Abeel, Peter Irving, Henry Mead.
1795—William Morey Ross, Timothy Fletcher Wetmore.
1796—Alexander Anderson, Winthrop Saltonstall.
1797—William Bay.
1802—Joseph Bailey, Richard L. Walker.
1803—Isaac Foster, Samuel Schofield.
1804—William Barrow, Ezekiel Ostrander, Daniel D. Walters.
1805—Thomas Cock, Benjamin Kissam.
1806—Valentine Mott.
1807—Alire R. Delisle.

The school had been conducted in the face of considerable discouragement, and, as a matter of fact, had little more than maintained an existence.

An anniversary orator stated that when he studied, in 1800, his anatomical class consisted of twenty-five students, and that there were no lectures on "theory and practice" until two years afterward. Such was the dilapidated condition of the college edifice that both chemical and surgical apparatus suffered from the rain, that came freely through the decayed roof. The anatomical museum likewise suffered from a like cause, etc. There were no graduates during the five years between 1797 and 1802, nor were there any from 1807 until 1810, when one candidate (Robert Morrell) received his diploma. Yet it had sent out a number of students who became skillful in their profession. Of its graduates, however, was one who did not long remain a practitioner, but whose name is honored in the annals of his day and is treasured by the profession which he abandoned for distinction in an illuminating field, less the decorative art.

He was Alexander Anderson, the father of wood engraving in the United states, known to fame, as "the American Bewick." He was born in New York City April 21, 1775. He read medicine under the preceptorship of Dr. Joseph Young, and was graduated in 1796. In his diary, still one of the Curios of the Columbia College Library, he notes that he was offered, by Dr. William Pitt Smith, the year before his graduation, the charge of the hospital at "Bell-vue." He rendered some service there while pursuing his medical studies, and says that he found six patients, sufferers from yellow fever, whom he bled. But medicine was not to his liking, or, rather, he had a predisposition for a different pursuit. When only twelve years old he had begun to make engravings upon copper coins, which he rolled out smooth, and which he worked with gravers of his own making, and he afterward made cuts upon type metal. He soon abandoned metal for boxwood, and copied Thomas Bewick's "Quadrupeds," and, at a later day, made the plate for Sir Charles Bell's "Anatomy" and other scientific works. For fifteen years he was the only engraver on wood in the United States, and maintained that distinction until 1850, his work being characterized as spirited and gracefully correct. His love for his work was so ardent that he prosecuted it until he was eighty-seven years old.

In 1789 there were twenty-seven physicians in the city directory of New York, and twenty-eight were recorded as members of the Medical Society. In that year Brissot de Warville noted that the healthfulness of the city afforded little encouragement to medical practitioners, and some of the most capable physicians gave a portion of their time to other than professional pursuits. The principal ailments were bilious fever and severe colds.

History of the Mormon Church

By Brigham H. Roberts, Assistant Historian of the Church

CHAPTER CXIII

Miscellaneous Events 1872-1877—Chicago Fire—Effort to Obtain Statehood—The Reynolds Polygamy Test Case—Decision of the Supreme Court of the United States—The Palestine Mission—Colonizing Arizona.

FOLLOWING closely the political and judicial events of the McKean period has excluded the consideration of a number of events running parallel with those considered, and which now demand attention.

Prominent among these was a great national calamity which caused the people of Salt Lake City to stand together again for a moment,—as in the case of the assassination of President Abraham Lincoln—forget their animosities and unite in expressing sympathy with and giving aid to, those upon whom the calamity had fallen. These were the citizens of Chicago, and the calamity was the Chicago fire which began on the 8th and continued to the 10th of October, 1871. The loss was estimated at nearly $200,000,000 in property. Upward of 17,450 houses were burned, 98,500 persons were rendered homeless, and over 250 persons lost their lives.[1] Throughout the land other cities re-

1. Appleton's Annual for 1871, p. 394. See also History of the U. S. Bryant, Gay and Brooks, Vol. V, p. 426. "The Chicago fire began on Sunday morning, October 8th, in a small wooden barn on De Koven Street, in what is known as the western district of that city. A woman was milking a cow by the light of a small kerosene lamp which the animal kicked over and broke. The little flame then kindled spread rapidly, fanned by a strong westerly wind, raged all that night and the following day, and was not checked until 2,124 acres of city property had been burned. * * * This enormous devastation was accomplished in parts of the city which were representative of the whole. In the sheets of flame were destroyed great blocks of costly and ornate business houses, elegant private resi-

sponded to the cry of distress, and prompt relief was given to the sufferers from the great disaster. In this work Salt Lake City equalled both in promptness and in proportionate amount the foremost cities of the country. On the 10th of October—before the fire in Chicago had completed its ravages—Mayor Wells called a mass meeting of citizens in the "Old Tabernacle" to convene at one o'clock the next day to raise funds in aid of the fire sufferers. The meeting was addressed by a number of prominent men both Mormon and non-Mormon. The chairman of the meeting—Mayor Wells—announced that Brigham Young had authorized the statement that a benefit in aid of the Chicago sufferers would be given at the S. L. Theatre one evening during the week, for which he gave free use of the house. Mrs. Lippincott—"Grace Greenwood"—a public lecturer and visitor in the city proposed giving a public lecture in aid of the sufferers in the "Old Tabernacle;" Brigham Young led the subscriptions by a gift of $1,000; quite a number of both non-Mormon and Mormon business men followed with donations of $500; Mayor Wells announced that he was authorized to give $1,500 in behalf of Salt Lake City. In all at this meeting $6,282 was raised.

In the evening another mass meeting was held in front of the Salt Lake House on Main street; John T. Caine called the meeting to order and Major C. H. Hempstead was elected chairman. Many addresses were made and more subscriptions were taken. The Masonic fraternity also opened a subscription. From all sources Salt Lake City promptly raised about $20,000 in aid of the Chicago fire sufferers, the larger portion of which came from the "Mormons," and that in the face of the fact that this call came upon them when their leading men, President Young, Mayor Wells and other leading brethren were being placed under arrest on trumped-up charges of "murder" and other crimes; and

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dences, and buildings of the United States, the county, and the local government. The same destructive flood swept away vast piles of lumber, extensive shops and factories, thousands of tons of coal, and the humble homes of working people and the poor. Structures of stone, brick, iron, or marble, erected in a belief that these were absolutely fireproof, were reduced to heaps of calcined material or warped and twisted metal. In the seething flames that seemed to lick the heavens, everything but the solid earth on which the city was built was utterly destroyed; and when the torrent of fire was finally stayed, acres of blackened debris, sullenly smoking in ruin, covered the site of two great divisions of Chicago." (*Id.*)

when Judge McKean was rendering some of the most outrageous of his decisions, and delivering anti-Mormon speeches from the bench. But then it was a real human cry for help that arose from the smoldering ruins of Chicago, and certainly less than Christians would the Latter-day Saints have been, had they not responded to that cry.[1½]

In January, 1872, the legislature passed an act providing for the election of delegates to a convention to frame a constitution and memoralize Congress for the admission of Utah into the Union.

Governor Woods refused to sign the bill because in his view it dealt with a matter that was not a rightful subject of legislation by the Territory; and further held that an enabling act by Congress was a necessary prerequisite to the calling of such a convention.[1⅓] The legislature appointed a special committee to express the sense of the house relative to the action of the governor; and its report held the governor's explanations for vetoing the bill as "unsound in reason, untrue in allegation, and accusation, and a direct insult to the law-abiding people of Utah."[2]

1½. Mrs. Lippincott, the proceeds from whose lectures amounted to $300 for the Chicago fire sufferers, thus wrote of the action of the Mormon people with reference to their giving aid to the Chicago sufferers. Her letter was to the N. Y. *Herald,* and bears date of Oct. 12th. "In the old tabernacle, yesterday, we attended a mass meeting, called by the Mayor, to raise money for the relief of the Chicago sufferers. Here we saw Brigham Young, and I must confess to a great surprise. I had heard many descriptions of his personal appearance, but I could not recognize the picture so often and elaborately painted. I did not see a common, gross looking person, with rude manners, and a sinister, sensual countenance, but a well dressed, dignified old gentleman, with a pale, mild face, a clear grey eye, a pleasant smile, a courteous address, and withal a patriarchal, paternal air, which of course he comes rightly by. In short, I could see in his face or manner none of the profligate propensities, and the dark crimes charged against this mysterious, masterly, many-sided and many-wived man. The majority of the citizens of Salt Lake present on this occasion were Mormons, some of them the very polygamists arraigned for trial, and it was a strange thing to see these men standing at bay, with 'the people of the United States' against them, giving generously to their enemies. * * * President Young gave in his thousand and the elders their five hundred each as quietly as the poor brethren and sisters their modest tribute of fractional currency. It is thought that Utah will raise at least $20,000. There is to me, I must acknowledge, in this prompt and liberal action of the Mormon people, something strange and touching. It is Hagar ministering to Sarah; it is Ishmael giving a brotherly lift to Isaac."

1⅓. His veto document—will be found in *Deseret News*—Weekly—of Jan. 31st, 1872.

2. Full text of report is in the legislative proceedings *Deseret News*—Weekly—of Feb. 7th, 1872. The special committee, in contradiction of the Governor's assertion that it had been "the uniform practice of Congress to confer that pow-

The legislature passed a conjoint resolution, independent of the governor, providing for the election of delegates to a constitutional convention which were proportioned to the counties according to population, and appointing the 19th day of February, 1872, for the time of convening said convention.[3]

There were several reasons that conjoined in making the effort to secure statehood at this time opportune. First it was urged upon the attention of the Church leaders that there was sufficient uncertainty in the approaching presidential election of 1872, to make it desirable to the Republican party, if it could be done "without abandoning any of its enunciated principles, or violating any of its distinct pledges," to admit some new states if the electoral votes of such states could be pledged to President Grant for a second term. Such in part was a suggestion made to the Mormon Church leaders in a letter to Geo. A. Smith, under date of Dec. 11th, 1871.[4] There was a policy much discussed at this time through the press of the country, which looked to the admission of Utah into the Union with a constitutional provision forbidding the contracting of plural marriages for the future, and thus ending the vexed Mormon question. The radical course of Governors Shaffer and Woods, and the prosecution of the McKean *regime,* had divided the Gentiles in Utah, and many of them were dissatisfied with the extreme radicalism of the period; and it was believed, and upon good grounds, that they would unite on such a plan for the admission of Utah as was proposed by Mr. Fuller, and many other friends

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er (i. e. the calling of a constitutional convention) through enabling acts, cited the case of Arkansas, admitted in 1836, previous to which an act had been passed by the Territorial legislature, *without the approbation of the Governor,* calling a convention to form a state constitution preparatory to admission, a "measure taken without previous action of congress;" Michigan admitted in the same year took practically the same action, except that the governor united with the legislative council in that instance; and California was admitted in 1850 without an enabling act. See Committee's Report as above cited.

3. Joint Resolution will be found in *Deseret News*—Weekly—of Feb. 7th, 1872.

4. See Letter in Hist. Brigham Young *Ms.* 1871, Vol. II, pp. 1991-9. The proposition was diplomatically introduced and elaborately discussed by Mr. Frank Fuller in the letter here cited. "I come to still another concession which, as I indicated to President Young, *must be made.* * * * I allude to the prohibition of the future extension of polygamy." His plan contemplated that this measure should be forced into the constitution by Gentiles and non-Polygamous Mormons rather than by the Mormon people proffering to make a surrender of plural marriage.

of Utah both inside and outside of the Territory; and not a few among the "near" leaders of the Mormon people favored such a step as was now proposed.[6]

Out of the nineteen delegates elected from Salt Lake county nine were non-Mormons;[7] though in the Salt Lake City election held that same month the People's (i. e. Mormon) ticket was elected by an average vote of 4,500, as against an average vote of 550 for the Liberal Party ticket. Of the Non-Mormons elected Gen. P. E. Conner resigned the nomination, not being a citizen of Utah, and S. Sharp Walker declined taking part in the convention being "opposed to the admission of Utah at the present time."[8]

The convention assembled on the 19th of February. No sooner was the convention organized than Judge Wm. Haydon of Salt Lake County moved its adjournment, *sine die*, for the reason that the people through the usual methods of petitions and mass meetings had not signified their desire for statehood; that the population was not sufficient under a recent law of Congress; that Utah was not prepared to meet the burdens of statehood; that the present convention was called without the authority of law. Judge Haydon was answered by Col. T. P. Akers and Col. D. E. Buel, both non-Mormons. The second day Col. Thomas Fitch made an extended argument against the Haydon motion and in favor of statehood for Utah, in which

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6. Undoubtedly the Church leaders were seriously considering this proposition. The fact that Ex-Secretary Frank Fuller was in communication with both President Young and Geo. A. Smith on the subject would indicate that (see letter previously cited). The following statement occurs in the minutes of the "School of the Prophets" for the 9th of Dec., 1871. "President Wells talked on polygamy—would not think it strange if God would take that principle, back to himself for a season, through the wickedness of his people" (Hist. of Brigham Young Ms. for 1871, Vol. 11, p. 1980). The "wickedness" referred to would doubtless mean general inability of the people to grasp the high intent of the principle of this marriage system. (See ch. CVIII this history).

7. The delegates from Salt Lake County were nominated in a mass convention held for the purpose. When nominated and called upon for a speech Mr. Thomas Fitch a "gentile" who had recently removed into Utah from Nevada, said that he did not wish any one "to vote for him under a misapprehension." "He would endeavor, if elected, to help frame a constitution that would assimilate the social and political life of Utah to that of all other states; and that would aid to render her institutions homogeneous with theirs." *Deseret News*—Weekly—of Feb. 7th, 1872, p. 9. That meant he would work for a constitution prohibiting future polygamous marriages.

8. The list of all the delegates and their counties will be found in *Deseret News*—Weekly—of Feb. 21st, 1872.

he made a scathing review of the McKean judicial regime in Utah.[9] He was followed by Hon. Frank Fuller, Gen. E. M. Barnum, and Mr. Hadley D. Johnson all non-Mormons who opposed the motion to adjourn, and so too did Geo. Q. Cannon. When the roll was called on the motion it was lost by a vote of 93 to 1; the one vote being given by Judge Haydon. The constitution of Nevada was used as a basis for the constitution to be then framed. The further procedure of this convention can be of no further interest to history, except as to its action in regard to polygamy as related to this effort for statehood. No direct effort was made by constitutional provision to prohibit in future polygamous marriages in the new state; though in Mr. Fitch's speech against Judge Haydon's motion to adjourn the convention *sine die*, a most earnest and able plea was made by that gentleman for the convention to adopt some measure of that kind, in order to secure statehood and avoid the continuance of a conflict that could have but one result—the overthrow of the practice.[10] But what was avoided by direct means was

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9. The speech in full is published in *Deseret News*—Weekly—of Feb. 28th, 1872.

10. Strange to say, although there were many able men of the Mormon faith in the convention, men who disagreed with Mr. Fitch's position, none attempted to answer his elaborate, carefully prepared argument on that head. The only thing said of it on the Mormon side was by Geo. Q. Cannon who merely declared that he had been unconvinced by the speech of Mr. Fitch. But what the Mormon members would not attempt to do Judge Haydon in reply to Mr. Fitch did for them, he said:—"What will history write? What will the world say of a convention composed almost entirely of Latter-day Saints, among whom are six apostles and twenty bishops, ready and willing to sacrifice one of their divine ordinances for the sake of a state government? Hearken to the words of a Gentile who is no enemy of yours, but who has every reason to be your friend, who has no favors to ask except those that one Christian may rightly demand of another. Stay where you are and bide your time! 'Learn to labor and to wait' until a new ordinance shall manifest itself for your guidance." To this Mr. Fitch replied: "The difference between my colleague and myself may be briefly stated thus: I wish the people of Utah to give up McKean and polygamy, he desires the people of Utah to stand by polygamy and McKean." Which reply the convention greeted with applause. The argument of Judge Haydon was not sincere; he was using it because desirous of preserving the *statu quo* of Utah affairs.

It would appear from the passage of the above "clause V." that had Congress but acted at that time, and prescribed the state constitutional inhibition of polygamous marriages as a condition precedent to statehood, the people would have ratified such a clause, and the question of polygamy would have been settled then (1872) instead of about a quarter of a century later, *viz.*, 1896. But this was later denied by President John Taylor, and several other prominent Elders, as being the object of the passage of the somewhat celebrated "clause" in the Ordinance of the constitution. "Its object," said President Taylor, "was to obtain the views of congress and the conditions it would impose before admitting us as a state, and then lay them before the people." On the same occasion, Elder Charles W. Penrose, then Editor

attempted by indirection, *viz.,* by submitting to congress the opportunity to prescribe the conditions on which Utah might be admitted into the Union, which conditions would be submitted to the vote of the people of Utah. This was provided for in the Ordinance of the proposed constitution as follows:

"We, the people of the Territory of Utah, do ordain as follows: . . .

"V. That such terms, if any, as may be prescribed by congress as a condition of the admission of the said state into the Union, shall, if ratified by a majority vote of the people thereof, at such time and under such regulations as may be prescribed by this convention, thereupon be embraced within and constitute a part of this ordinance."[11]

This section was discussed on the 5th day—the convention ran through twelve days in all—under a motion to eliminate it, but the motion was lost. Mormon members were found on each side of the question. The venerable Orson Pratt was in favor of eliminating it; so, too, was Charles C. Rich, of Bear Lake county. Geo. Q. Cannon favored its retention on the ground that the section "gave congress the opportunity to say what terms were required for the admission of Utah."[12] It was expected, of course, that Congress would insist upon a provision prohibiting polygamous marriages for the future, and

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of the *Deseret News,* said: "The entire proceedings (i. e. in the passage of "clause V.") were intended merely to give congress a chance to admit us or show why we were not admitted." Both repudiated the idea that there was any intention to surrender the practice of plural marriage for statehood. (See interview between President John Taylor, other leading Church officers, and O. J. Hollister, Collector of Internal Revenue for Utah Territory, also correspondent of the New York *Tribune*). Mr. Hollister had sought the interview in his latter capacity. The date of it was January 13th, 1897. Seven days before, the Supreme Court of the United States had rendered its decision in the Reynolds polygamy case, and the N. Y. *Tribune,* through its representative, was seeking to learn the attitude of the Church authorities upon the decision. Incidentally Mr. Hollister brought up "clause V.," of the Ordinance of the Constitution of 1872, with the above result. The interview *in extenso* is published in the *Deseret News*—Weekly—of January 29th, 1879.

11. The committee on Ordinance that reported this section consisted of Geo. Q. Cannon, Joseph W. Young (nephew of President Young), John T. Caine, Abraham O. Smoot, Thomas Fitch, Franklin D. Richards, William Jennings, John Rowberry, and John Sharp.

12. The Convention's proceedings are published in full in the *Deseret News*—Weekly—of Feb. 21st, 28th, March 6th (in which number the Constitution also appears), and March 13th. Much of the Convention proceedings is also reproduced in Tullidge's Hist. of Salt Lake City, Chapters LXVI and LXVII. Gen. E. M. Barnum was President of the Convention.

this condition precedent to statehood, under the 5th section of the Ordinance, would have been submitted to the vote of the people.

After the adoption of the constitution by the convention, Geo. Q. Cannon, Thomas Fitch and Frank Fuller were elected to proceed to Washington to present it and also the Memorial adopted, urging the admission of Utah into the Union. Meantime the constitution was submitted to a vote of the people, and at the same time a representative to congress was voted for from the prospective state. The vote on the Constitution was a total of 25,160 for it, and a total of 365 against it; and for representative to Congress, Hon. Frank Fuller, 24,987; W. H. Hooper, 145; Mike Fuller-Tooele, 15.[13]

Mr. Barnum, President of the late constitutional convention, by proclamation convened the legislature of the state of Deseret on the 4th of April, which met accordingly and continued through three days, electing Hon. W. H. Hooper and Thomas Fitch U. S. senators, and then adjourned "to meet again on the third Monday in the month succeeding that in which *Deseret* by act of Congress and Presidential proclamation should be admitted as a state into the Union."[14]

There was also an effort made in connection with this 1872 movement for statehood to organize the people of the Territory on national party lines, and thus abolish their division into Church and anti-Church parties. The Territorial Republican convention met in Salt Lake City on the 5th of April, to nominate delegates to the National Republican convention at Philadelphia. Hon. Frank Fuller and Hon. Thomas Fitch were named as delegates, and Geo. A. Smith and Wm. Jennings as alternate members.[15]

13.—*Deseret News*—Weekly—of April 3d, 1872. Gen. Eli. M. Barnum, Robert L. Campbell, and Elias Smith were the board of canvassers.

14. *Deseret News*—Weekly—of Apl. 3rd and 10th, 1872.

15. The minutes of the convention—which are quite elaborate—are published in *Deseret News*—Weekly—of April 10th, 1872. A series of resolutions in support of the Republican party were adopted, and the names of the delegates are published. Franklin D. Richards was temporary chairman and President of the convention. Geo. A. Smith delivered an extended speech. Both Mormon and Gentiles were well represented in the convention. A Central Territorial Committee was chosen of which John T. Caine,—Ex-Governor S. A. Mann, and Daniel H. wells were members.

A Democratic mass convention was held in Salt Lake City on the 8th of April which drafted resolutions declaring their principles and provided the machinery in a Territorial Central Committee for the future guidance of the party's movements. On the 13th of July, the national Democratic party having put in nomination Greeley and Brown for President and Vice-President, a great Democratic ratification meeting was held in Salt Lake City. It was the greatest purely political gathering ever held in Salt Lake City up to that time. There were firing of cannons, and two bands of musicians in attendance. The concourse outside the hall numbered four or five thousand. Gen. E. M. Barnum was president of the meeting. There were thirty-two Vice-Presidents chosen, among whom were W. H. Hooper, Geo. Q. Cannon and a number of prominent Non-Mormons. The report of the meeting and the speeches cover two and a half full pages of the *Deseret News*.[16] Fourteen days later the Territorial convention made up of delegates from the various counties met in Salt Lake City for the purpose of announcing a platform of principles and nominating a delegate to congress. The third plank of the platform read:

"Third—That in Utah as in the nation, ours is the party of conciliation, peace and progress, and that we condemn the unwise policy of the present administration towards the people of this Territory.

"That we recognize the fact that the public sentiment of the nation, and our own best interests alike require that domestic institutions and local government here should be moulded to conform with those of all other American communities, but that this end may best be achieved by the exercise of that policy of justice, toleration and magnanimity, to which our national party organization is everywhere pledged."[17]

Two candidates were placed in nomination before the convention, Geo. Q. Cannon and Mr. J. P. Page. The former gentleman had received the nomination of the People's Party (13th of July) and the question was raised as to whether he would accept the party's declaration on the subject of "domestic insti-

16. See *Deseret News*—Weekly—of July 17th, 1872.
17. *Ibid.* of July 31st, p. 380.

tutions'' in Utah, as quoted in the resolution above. Mr. A. J. Faust placed Mr. Cannon in nomination, Mr. Charles W. Penrose seconded the nomination in a vigorous speech: but when asked if he would pledge Mr. Cannon to the platform just adopted, he replied that he was not authorized to speak in any way for Mr. Cannon,[18] and the convention proceeded to ballot, with the result that Mr. Cannon received fifty votes, and Mr. Page twenty-three. The vote for Mr. Cannon was then made unanimous.

The anti-Mormon forces in Utah and the anti-Mormon sentiment in the west, however, were too strong at that time to permit this effort to conform conditions in Utah to those ''of all other American communities,'' to succeed. When the Republican representatives to the national convention, Frank Fuller and Geo. A. Smith, presented their credentials at the convention in Philadelphia, they were confronted by *Messrs.* Gould and Hollister, one the postmaster at Salt Lake City and the other collector of internal revenue at the same place, as rival delegates. They had been chosen by the Anti-Mormon Republicans of Salt Lake City—chiefly a coterie of federal officeholders—and sustained their application in a paper presented to the Convention which concluded with the following reference to their opponents:

''We cannot see how the national Republican convention could recognize polygamy, by the admission of Smith and Fuller,

18. *Ibid.* The question was raised by Col. T. P. Akers. "I can pledge Mr. Cannon to anything that has been written there," said Mr. Faust, referring to the platform." Col. Akers said: "I am ready [then] to support him. And I would like to state further that, as the gentleman who placed Mr. Cannon in nomination, has given this Convention a pledge, on the part of Mr. Cannon that he would adopt the platform, I wish it uderstood that he goes forth to the country as the candidate of this convention if he receives a majority of votes, announcing that the best interests of Utah require that its citizens array themselves under the banners of the great political parties of the country, also declaring that the formation of political organizations upon the basis of a difference in religious belief is opposed to the genus of our republican system; and declaring, finally, that the public sentiment of the nation, and our own best interests, alike require that domestic institutions and local government here should be moulded to conform to those of all American communities. That is what our candidate says; that is what the gentleman placing him in nomination pledges him to say, and on that platform I would as soon vote for George Q. Cannon as any man in Utah; and on that platform I will cast my vote for him. (Applause). It is understood that we will only consider him the candidate of the Convention when he writes us a letter of acceptance."

without self-stultification; without placing a premium on disloyalty and quasi-rebellion; without doing great injustice to the loyal people of Utah, and outraging a sense of decency, as well as the true politics of the entire nation, without distinction as to party.''[19]

The committee on credentials proposed to admit both delegations and divide the votes between them, but this compromise, *Messrs.* Fuller and Smith declined, and left the convention, and *Messrs.* Gould and Hollister were seated.[20]

The memorial and constitution for Utah's admission to the Union were presented in both the senate and the house on the 2nd of April, and referred to the committee on Territories in each house; but no further action was taken by congress, and the hopes of the people of Utah for state sovereignty, even with polygamy sacrificed, were disappointed.[21]

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19. Salt Lake Daily *Herald* of June 8th, 1872.

20. *Ibid.* See also *Deseret News* of June 7th.

21. The attitude of both houses of Congress, and of the country at large is well represented by the attitude of President Grant in the following anecdote in the *Cincinnati Commercial* from its Washington Correspondent of the period. The interview appeared under the caption *"Wasted Argument."*

"Senator-elect Fitch, from the embryo State of Deseret, called upon the President a few days ago to talk over Utah affairs. He found the President enjoying a cigar.

"Mr. President," said the colonel "I want to try and convince you of the advisability of admitting Utah into the sisterhood of States."

"I am unalterably opposed to the admission of Utah," answered the President.

"Yes, but you have been prejudiced against the people out there by unfair advisers," said Fitch.

"I am unalterably opposed to the admission of Utah," was the reply.

"But our population is sufficient; we have made a fair constitution, and it would be a great relief to the people out there to get into the Union."

"I am unalterably opposed to the admission of Utah," again replied the firm man.

"Under any terms?"

"Yes, upon any terms. At least they should not come in until they learn how to behave themselves."

"If you refer to polygamy, they will no doubt surrender that for the sake of admission and peace, although it is one of the doctrines of their church."

"And murder is one of the doctrines of the church, ain't it?"

"No, indeed; there are less murders committed there than in any of the surrounding Territories. As I said before, you have been very much misinformed about the true condition of affairs. You surely don't believe everything you hear against the Mormons?"

"Where there is so much smoke there must be some fire," answered the President.

"Suppose we should say the same about all the lies told about you?"

Silence and smoke.

"By admitting us the troubles out there would be at an end."

Silence and smoke.

To this period belongs the Reynolds polygamy case which finally led to the submission of the congressional law of 1862 to the Supreme Court of the United States.

For some time there had been a desire on both sides of the polygamy controversy to have the pronouncement of the Supreme Court of the United States upon this law. After the Supreme Court's decision in the Engelbrecht case, and while yet in the east, district attorney Geo. C. Bates announced it as his intention to indict a number of leading Mormons, with their consent and approval, for the violation of the bigamy law of 1862, in order to test the constitutionality of that law. This he also represented met with the approval of President Grant.[22] But before this program could be carried out Mr. Bates was superseded in office. In October, 1874, however, George Reynolds, private secretary of Brigham Young, and a man noted for the strict integrity and uprightness of his life, was indicted for violation of the bigamy law of 1862. Hearing of his indictment he voluntarily appeared in court, and gave bail in a bond of $2,500. Upon this indictment he was tried and convicted, being sentenced to one year's imprisonment and to pay a fine of $500. An appeal was taken to the Supreme Court of the Territory and the case was dismissed on the ground that the grand jury which found the indictment was an illegal body. This was one of the voluntary cases referred to above by U. S. district attorney Bates, in which the defendant was a willing party in order

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"It is of the highest importance to the welfare of her people and the development of the rich resources of the Territory that Utah be admitted."

Silence and smoke.

"Is your mind, Mr. President, so firmly made up, that whatever arguments might be addressed to you would be useless?"

"I am unalterably opposed to the admission of Utah," replied our firm President, and the charming interview ended. (*Mill. Star*, Vol. XXXIV, p. 454.)

22. "We learn from Colonel Bates that he now proposes to indict, and has declared his purpose and ability to do it, three or four leading Mormons under the only law in existence for punishing the so-called crime of polygamy, the statute of 1862, *according to law*. This he will do with the approval of President Grant, through a jury composed of equal numbers of Mormons and anti-Mormons, and with the unanimous consent of the offenders, that they may demonstrate their perfect willingness to abide the decision of the highest judicial tribunals upon their civil and religious rights and liberties." (Omaha *Herald*. Copied into S. L. *Daily Herald* of June 19, 1872. See also statement of Mr. Bates in note 107 in preceding chapter).

to have the case tested in the Supreme Court of the United States.[23]

The dismissal of the Reynolds case by the Territorial Supreme Court took place on June 19th, 1875. On the 30th October of the same year Mr. Reynolds was a second time indicted, and tried before the third district court, found guilty and sentenced to two *years' imprisonment at hard labor,*—and to pay a fine of $500. In this second trial, for some unknown cause (unless it be assigned to the increasing intensity of the anti-Mormon spirit—both in Utah and throughout the United States), the prosecution grew vindictive towards Mr. Reynolds, as indicated in doubling the term of imprisonment and adding to the sentence *"hard labor."* The nature of the trial throughout also indicates a different relationship of the prosecution and defense.[24] An appeal was taken to the Supreme Court of the Territory which affirmed the decision of the lower court, July 6th, 1876. The case was appealed to the Supreme Court of the United States which rendered a decision on January 6th, 1879, sustaining the constitutionality of the congressional law of 1862. A review of the case or any adequate discussion of the questions involved may not be indulged here. Let it be sufficient to say that the Supreme Court held that it was "within the legiti-

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23. This is evident from the voluntary appearance of the defendant in court on hearing that he was indicted (Deseret New—Weekly of Oct. 28, 1874), and all the circumstances of the trial, in which nearly all the witnesses were from Mr. Reynolds' family and high church officials and willing to testify. *Deseret News*—Weekly—of April 7th, 1875, where court proceedings are published, pp. 145 and 152.

24. See record of the Trial in *Deseret News*—Weekly—of Dec. 15th, 1875. In the first trial the plural wife Amelia Jane Schofield Reynolds, testified to her marriage with Geo. Reynolds, and completed the prosecution's chain of evidence; in the second trial she avoided service of subpoena, and her testimony at the first trial was taken over into the record of the second by the testimony of officers of the court (Id. 61-72). Mr. Baskin in his Reminiscences (pp. 61-72) very vehemently denies the statement of Whitney as to the existence of an understanding that the Reynolds case was merely a test case to ascertain the constitutionality of the law of 1862, saying that: "If such an agreement had been entered into, and Reynolds in pursuance thereof, as alleged, had furnished the evidence upon which he was convicted, his heavy sentence was a glaring outrage. * * * If any such 'arrangement' had been made, for Mr. Carey or myself (if I had, as alleged, been his assistant in the trial), to have remained silent and failed to interpose an objection to the sentence, would have been dishonorable in the extreme." Both writers fail to note the different status that existed between the first and second trial of Mr. Reynolds. Undoubtedly Mr. Reynolds was a willing subject under the first trial to test the constitutionality of the law; and equally certain is it that in the second trial he was no such willing subject, and fought the case as hard as the circumstances would admit of, because of the evidently changed attitude of the prosecution.

mate scope of the power of every civil government to determine whether polygamy or monogamy shall be the law of social life under its dominion;" that the statute under consideration was "within the legislative power of congress." "This being so the only question which remains is, whether those who make polygamy a part of their religion are excepted from the operation of the statute. If they are, then those who do not make polygamy a part of their religious belief may be found guilty and punished, while those who do must be acquitted and go free. This would be introducing a new element into criminal law. Laws are made for the government of actions, and, while they cannot interfere with mere religious belief and opinions, 'they may with practices.'"

The statement is "smart" rather than profound, and was sustained by illustrations "trite" and "shop worn" through excessive use by Colfax, Newman *et al.*, long before they were dignified by being made the phraseology of the Supreme Court of the United States. These were the illustrations: "Suppose one religiously believed that human sacrifices were a necessary part of religious worship, would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or, if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband, would it be beyond the power of the civil government to prevent her carrying her belief into practice? . . . To permit this, would be to make the professed doctrines of religious belief superior to the law of the land, and, in effect, to permit every citizen to become a law unto himself."

The weakness of the argument of the court consists in the comparison of things that are altogether dissimilar. What had plural marriage of the Latter-day Saints in common with the sacrifice of human life or the suttee of India? Mr. John Taylor, when Vice-President Colfax ten years before had presented the line of reasoning followed by the Supreme Court, met the argument in the following pointed manner:

"The burning of Hindoo widows was considered a religious rite by the Hindoos. The British were horrified at the practice, and suppressed it. The Mormons believe polygamy to be a

religious rite. The American nation consider it a scandal and that they ought to put it down. . . . The British suppressed the suttee in India, and therefore we must be equally moral and suppress polygamy in the United States. Hold! not so fast; let us state facts as they are and remove the dust. *The British suppressed the suttee, but tolerated eighty-three millions of polygamists in India. The suppression of the suttee and that of polygamy are two very different things.* If the British are indeed to be our examplars, congress had better wait until polygamy is suppressed in India. But it is absurd to compare the suttee to polygamy; one is murder and the destruction of life, the other is national economy and the increase and perpetuation of life. *Suttee* ranks truly with *infanticide*, both of which are destructive of human life. *Polygamy* is salvation compared with either, and tends even more than monogamy to increase and perpetuate the human race."[25]

The Supreme Court, however, if it did not have the greater force of logic in the case, it did have the strength of national authority back of it, supported by the sentiment and prejudice of the country, and its *decision announced the law of the land*, until that law is changed.

The purely religious movement of this period in the Church as related to foreign activities was the mission of Elder George A. Smith, second counselor to President Young, and a party of prominent Latter-day Saints, to Palestine.[26] The purpose of the mission is stated in the letter of appointment to President Geo. A. Smith, signed by President Brigham Young and Daniel H. Wells.

"As you are about to start on an extensive tour through Europe and Asia Minor, where you will doubtless be brought

25. The Mormon Question Taylor-Colfax Discussion, p. 23. Geo. Q. Cannon wrote an elaborate Review of the Decision of the Supreme Court in the Reynolds Case, 1879; in which he said, speaking of the decision as a whole: "I venture to say that no constitutional lawyer—and in fact no layman who has given the questions involved in this case any consideration whatever—who takes pride in the reputation of the Court, can help having a feeling of regret in reading the decision. It is superficial, careless and immature. It reads more like the plea of an advocate than the well-considered, thoroughly weighed and ripe decision of great judges upon an important and long agitated constitutional question." The Pamphlet is now rare.

26. The party consisted of Elder George A. Smith of the council of the First Presidency, Elders Lorenzo Snow and Albert Carrington of the council of the Twelve Apostles, Elders Feramorz Little, Paul A. Schettler, Thomas W. Jennings, Eliza R. Snow, and Miss Clara A. Little.

in contact with men of position and influence in society, we desire that you observe closely what openings now exist, or where they may be effected, for the introduction of the gospel into the various countries you shall visit.

"When you get to the land of Palestine, we wish you to dedicate and consecrate that land to the Lord, that it may be blessed with fruitfulness, preparatory to the return of the Jews, in fulfilment of prophecy and the accomplishment of the purposes of our heavenly Father."[27]

This, it will be remembered, was the second apostolic mission to the Holy Land for the same purpose, i. e. dedication of the land preparatory to the return of the Jews, the first being that of Elder Orson Hyde, of the Apostle's quorum—1840-41[28]

Without difficulty the party arrived safely in Palestine in the following March, and on the second of that month on the Mount of Olives held solemn worship and dedicatory services.[29] En route eastward President Smith and some members of his party had an interview with M. Thiers, President of France. The mission returned to Salt Lake City in June, 1873.

In connection with this far eastern mission may also be mentioned the missionary visit of the veteran apostle of the Church, Elder Erastus Snow, to England and Scandinavia. In the latter countries it will be remembered Elder Snow founded a successful mission in 1850.

In the latter part of this period a mission was opened in the Republic of Mexico. The Elders constituting it were called at the general conference of the Church, October, 1875. These were Daniel Jones, Anthony W. Ivins, Ammon M. Tenny, James Z. Stewart, Helaman Pratt, Robert H. Smith and Wiley C.

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27. Copy of the letter dated at Salt Lake City 15th Oct., 1872, will be found in Autobiography of Lorenzo Snow—1884—Supplement, p. 496.

28. See this Hist. Ch. XXXVII.

29. *Mill. Star*, Vol. XXXV, p. 201. The journey of the party extended to all points of interest in the Holy Land. After leaving Jerusalem on the 5th of March, "they journeyed northward, visiting the ancient sites of Shiloh, Shechem (now Nablous), Samaria, Nazareth, Cana, Tiberias, by the sea of Galilee, Bethsaida, Capernaum, Dan and Cesarea Philippi, at the foot of Mount Hermon, and arrived in Damascus, Syria, March 15th. From that city the journey was continued over the mountains of Lebanon to Beyrout, where they embarked on a steamer for Constantinople, Turkey, arriving there April 1st." (*Mill. Star*, Vol. XXXV, p. 232).

Jones.[30] Later there was added to this mission Meliton G. Trejo, of whom more later. The mission crossed the Rio Grande at El Paso, Texas, to Ciudad Juarez, Mexico, and there began their labors on the 7th of January, 1876. Three months later the mission extended its activities to the city of Chihuahua, the capital of the state of Chihuahua. Select passages from the Book of Mormon relating to the promises and blessings of God yet to be realized by the native races of America, translated by Elder Trejo into the Spanish language were distributed among the people;[30½] a very successful public meeting was held in Chihuahua—five hundred in attendance—besides many private interviews had with the people and city and state officials. The mission returned to the United States in April of the same year. The following year Elders Louis Garff and Meliton G. Trejo opened a mission in Sonora, Mexico, and baptized five persons in Hermosilla, the capital of Sonora; and in May of the same year, Elders Helaman Pratt and George Ferry commenced a mission among the Yaquis Indians of Sonora, but not much progress could be made with these very warlike people.[31] Later, viz, in 1879, a mission under the direction of Moses Thatcher was begun in the city of Mexico, which led to a somewhat extensive work being opened in that region of the country and the settlement of Mormon colonies from Utah in the northern part of the Mexican republic,[32] the events of which, however, belong to a later period of this History.

In 1873 a colonization movement was undertaken for the establishment of settlements along the Little Colorado river in northern Arizona. The first company in this enterprise, led by Horton D. Haight, one of the veteran plains captains of an earlier period, failed to find any suitable country for planting a settlement and returned to Utah the same year.[32]

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30. See Letter of James Z. Stewart, in *Deseret News*—Weekly—of Jan. 26, 1876, p. 825.

30½. These fragments were called *"Selectos,"* and about five hundred copies were sent to the prominent men in the principle cities of Mexico.

31. See Jensen's Chronology Introduction for the year 1877, also under date of May 30th, same year.

32. See Biography of Moses Thatcher in Latter-day Saints Biographical Encyclopedia—Jensen—127-136.

32. The company went by way of Kanab, southern Utah; thence to the Colorado river which they crossed at Lees Ferry, near the mouth of Paria (the

Two years later, namely in February, 1876, a second colonization company was organized under the leadership of Major Lot Smith, of "Echo Canon War" fame. This company followed the same general direction of the colony of two years before, but by extending their explorations further up the Little Colorado than the first party went they found a region of country suitable for settlement, mainly between what is now the railroad station of Winslow and Holbrook, on the Santa Fe line of railroad. The settlements then formed afterwards constituted the Little Colorado State of Zion; they were Brigham City, formerly Ballinger; Sunset, St. Joseph, and Taylor, the last on Silver Creek, a tributary of the Little Colorado.

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orthography sometimes given is Pahreah) a small stream from the Northwest. From Lees Ferry they bore south easterly to Mohave Springs, thence down the Mohave or Moencopie Wash to the Little Colorado. At this point an exploring party was formed and leaving the main encampment went up to the Little Colorado, from sixty to eighty miles up the river,—one hundred and twenty miles in all was traveled by the party, it was absent from the main encampment eight days; but finding no country suited for settlement, returned to the main encampment and thence to Utah. See Letter of Henry Homes to F. D. Richards for these movements, *Mill. Star*, Vol. XXXV, pp. 532-5. While encamped on the Little Colorado the expedition sent two men back to Kanab to report from that point by telegraph to Brigham Young, and ask instructions; they could get no reply; and after their return to the main camp, the decision was made by the expedition to return.